

Exhibit 9-1



ORIGINAL

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UNITED STATES DISTRICT COURT NEW YORK
FOR THE EASTERN DISTRICT OF NEW YORK

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MARTIN TANKLEFF,

Plaintiff,

-against-

THE COUNTY OF SUFFOLK, K. JAMES McCREADY,
NORMAN REIN, CHARLES KOSCIUK, ROBERT DOYLE,
JOHN McLELHONE, JOHN DOE POLICE OFFICERS
#1-10, RICHARD ROE SUFFOLK COUNTY EMPLOYEES
#1-10,

Defendants.

-----X

666 Old Country Road
Garden City, New York

December 11, 2012
11:29 a.m.

DEPOSITION of K. JAMES McCREADY, one of
the Defendants herein, taken by the
Plaintiff, pursuant to Federal Rules of
Civil Procedure and Notice, held at the
above-mentioned time and place, before Dolly
Fevola, Notary Public of the State of New
York.

A P P E A R A N C E S :

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SUFFOLK COUNTY DEPARTMENT OF LAW
Attorneys for the Defendants
H. Lee Dennison Building
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BY: RICHARD T. DUNNE, ESQ.

ALSO PRESENT:

KATHY PASCHAL, Videographer

MARTIN TANKLEFF, Plaintiff

ROBERT DOYLE

NORMAN REIN

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED, by
and among counsel for the respective parties
hereto, that the filing, sealing and
certification of the within deposition shall
be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that
all objections, except as to form of the
question, shall be reserved to the time of
the trial;

IT IS FURTHER STIPULATED AND AGREED that
the within deposition may be signed before
any Notary Public with the same force and
effect as if signed and sworn to before the
Court.

* * *

THE VIDEOGRAPHER: This is reel number one of the deposition of K. James McCready in the matter of Martin Tankleff versus the County of Suffolk and others. The United States District Court for the Eastern District of New York.

The deposition is being held at 666 Old Country Road, Garden City, at Barket, Marion, Epstein & Kearon on December 11, 2012, at approximately 11:29 a.m.

My name is Kathy Paschal, the videographer from Pro Video Productions located in Nesconset, New York. The court reporter today is Dolly E. Fevola, an associate in for Fevola Reporting and Transcription Inc.

Will counsel please introduce themselves and state the parties you represent.

MR. BARKET: Bruce Barket for the Plaintiff, Martin Tankleff.

1 K. James McCready 5

2 MR. POLLACK: Barry Pollack on
3 behalf of Mr. Tankleff.

4 MS. FREUDENPERGER: Emma
5 Freudenperger also on behalf of Mr.
6 Tankleff.

7 MR. DUNNE: Richard T. Dunne on
8 behalf of the County of Suffolk and
9 individually named defendants
10 including the next witness, retired
11 Detective McCready.

12 THE VIDEOGRAPHER: Will the
13 court reporter please swear in the
14 witness.

15 K. J A M E S M c C R E A D Y, after
16 having been first duly sworn by a Notary
17 Public of the State of New York, was
18 examined and testified as follows:

19 EXAMINATION BY

20 MR. BARKET:

21 Q State your name for the record,
22 please?

23 A K. James McCready.

24 Q State your address, please.

25 A 30 Yaphank, Yaphank, New York.

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K. James McCready 6

MR. BARKET: Good morning, Mr.
McCready.

THE WITNESS: Good morning.

MR. BARKET: I'm going to ask
you a series of questions. If, at
any time, the question is not clear
or if for whatever reason you don't
understand, ask me to rephrase it.
If you don't ask, we're all going to
assume that you understood the
question the way I asked.

Q Did you prepare or review any
material in preparation for your deposition
today?

A Yes.

Q What was that?

A Some reports, notes. I don't
know. Photos, my court testimony, I
believe. Yeah.

Q Let's go through it. The
supplemental reports are reports that were
prepared at or about the time of this
investigation by you or other members of
your team?

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K. James McCready

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A Yes.

Q And those you're referring to are the notes you took concerning this investigation?

A Yes, and some of Norman's notes and some other notes. Whatever I could get my hands on.

Q And you said you reviewed your trial testimony?

A Yes.

Q How about your hearing testimony? You testified at a pretrial hearing; is that right?

A Yes.

Q Did you review that testimony?

A I don't remember reviewing that.

Q You said you looked at photographs. I'm assuming you mean crime scene photographs?

A Yes.

Q By the way, you gave a number of media interviews in connection with this case; is that correct?

K. James McCready

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A Yes.

Q Did you review the media, look at the media interviews --

A No.

Q -- tapes of the media interviews?

A No.

Q You sat through the deposition yesterday and this morning of your, I guess, your former partner Norman Rein?

A Yes.

Q You did not have to do that, right?

A What?

Q You didn't have to do that?

A No.

Q You chose to do that?

A Well, actually, I thought I was going to go first but as I pointed out the other day, I need hearing aides and I was hoping to get them before I actually sat down here. I'm supposed to pick them up today.

Q Can you hear me okay now?

1 K. James McCready 9

2 A I can hear you but I have to
3 really pay attention.

4 Q Hopefully I'll keep your
5 interest and speak loudly. By the way, you
6 all get paid as part of the contract with
7 the police department so you're being paid
8 some kind of salary or compensation for
9 testifying today; is that right?

10 A Yes.

11 Q That's through the contract the
12 police department has with the County?

13 A Yes.

14 Q Could you tell me your general
15 employment history. Were you a Suffolk
16 County police officer for a number of years?

17 A Well, I'll start at the very
18 beginning. October 24, 1969, I was
19 appointed to the New York City Police
20 Department. I think in April 24, 1970, I
21 was appointed to the Suffolk County Police
22 Department. I worked in various -- worked
23 in the Second Precinct. I worked in the
24 narcotics squad. I worked anticorruption
25 bureau, rackets bureau. I made detective

1 K. James McCready 10

2 while I was in the Fourth Precinct and I
3 went to the Sixth Precinct and from the
4 Sixth Precinct I was transferred into the
5 homicide squad.

6 Q When did you enter the homicide
7 squad?

8 A March of 1980.

9 Q Okay. Is it correct that yours
10 was the fastest promotion to homicide in the
11 history of the Suffolk County Police
12 Department?

13 A Yes.

14 Q I saw somewhere or a quote from
15 you that this was the best job in the world,
16 being a homicide detective?

17 A Yes, it is.

18 Q You liked what you did?

19 A Yes.

20 Q You're good at it?

21 A Yes.

22 Q I understand that you've worked
23 over 300 homicides?

24 A Close to that. Not as the lead
25 detective but...

1 K. James McCready 11

2 Q Two hundred murders, lead
3 detective on 60; is that right?

4 A I believe so. I'm not sure.

5 Q Do you have a -- favorite might
6 not be the right word, but do you have one
7 of those 60 or 300 that sticks out as being
8 particularly memorable to you?

9 A Yes.

10 Q Tell us about it.

11 A Patty Finn. She was a young
12 lady, West Sayville, and she was brutally
13 stabbed, raped and stabbed 37 times. We had
14 a very viable suspect -- I don't remember
15 his name right now -- and I believe he was
16 wanted in connection with, a serial killer,
17 18 other murders across the country.

18 I got a lead that he had gotten
19 on a bus and that he was going to Colorado.
20 My partner at that time was Bill Mahoney.
21 We literally chased him across country for
22 12 days. We finally caught up with him in a
23 place called Pacific County in the state of
24 Washington.

25 The Sheriff and the district

1 K. James McCready 12
2 attorney of that county -- it was a very
3 small little town -- actually apprehended
4 him and then I was able to interview him and
5 he looked real good as a suspect the only
6 problem was he did not do it. He did the
7 other 18, but he did not do mine.

8 So needless to say, I felt a
9 little awkward coming back with my tail
10 between my legs so to speak, but if he
11 didn't do it he wasn't going to jail for it.
12 That always stuck out in my mind.

13 Q You ever eventually find the
14 individual who committed that murder?

15 A Yes.

16 Q You solved the case?

17 A Yes.

18 Q Did you receive any awards in
19 the course of your duties as a police
20 officer?

21 A I think 17 separate awards.

22 Q Any that stick out in your
23 mind?

24 A Well, Silver Shield Award given
25 by the PBA and the Combat Cross.

1 K. James McCready 13

2 Q What's a Combat Cross for?

3 A Combat Cross is you engage in a
4 gun battle with an adversary and you win.

5 Q I guess you really want to get
6 that award if you're in a gun battle. You
7 also had -- You come from a police family;
8 is that right?

9 A Yes. As far as we can trace,
10 our family goes back to 1854 in the State of
11 New York.

12 Q You don't just trace your
13 family back to 1854, you trace your family
14 back in law enforcement that long?

15 A That's what I'm saying. The
16 earliest records the city police have begin
17 in 1854. That's as far back as we can trace
18 it under Murphy and McSweeney, Family part.

19 Q So your dad was on the job as a
20 police officer?

21 A My dad became a police officer
22 when he was 36, just about 37. He managed
23 to get on because he had seven years
24 military time and in those days they
25 deducted military time from your age under

1 K. James McCready 14

2 29 and he was going to be 37 in December of
3 1957 and he was appointed in September -- I
4 think September 14th of 1957 -- to the
5 Huntington Town Police Department.

6 Q Do you have brothers that were
7 also police officers?

8 A Yes, three brothers.

9 Q I saw reference someplace your
10 name is James McCready or Kevin James
11 McCready?

12 A My real name is Kevin James
13 McCready, however, I don't know what
14 happened but I was -- my birth certificate
15 is Kevin. My baptism certificate is James.
16 And up until I started collecting Social
17 Security three years ago my social security
18 card had James K. McCready so I had to get
19 that switched.

20 But yeah, my dad was one of the
21 original 10 homicide detectives in the
22 County. They formed that in 1963. I was
23 the next one to go to homicide. My brother
24 Gene came into homicide. My brother Tommy
25 was an arson detective. My brother Kevin

1 K. James McCready 15

2 got hurt on the job, early on in the job.
3 He got out on a disability.

4 Q Okay. You said you were in
5 narcotics. When were you in narcotics?

6 A I think 1972. '72 and '73 I
7 think it was. I don't know if you know who
8 Dennis Wustenhoff (phonetic) is God rest his
9 soul. Dennis Wustenhoff took my place in
10 narcotics squad. He was subsequently
11 murdered.

12 Q I'm sorry. Sorry. And you
13 were also in rackets?

14 A Yes.

15 Q Rackets being investigating
16 organized crime?

17 A Yes.

18 Q I want to talk to you a little
19 bit about your training in confessions.

20 Part of your job as a detective
21 is interviewing suspects; is that right?

22 A Is what?

23 Q Interviewing suspects.

24 A Sure.

25 Q You need to know how to do

K. James McCready

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1
2 that?

3 A Yeah.

4 Q You don't get to homicide if
5 you're not capable of interviewing
6 individuals you believe are involved in
7 serious crimes?

8 A Right.

9 Q And I guess you heard the
10 discussion yesterday about the confession
11 takers and the SIC?

12 A Yes.

13 Q You remember all that?

14 A Yes.

15 Q There was a comment that was
16 made by Detective Rein in response to a
17 question that the confession rate in Suffolk
18 at the time was between 90 and 95 percent,
19 solving homicides with confessions or
20 entertaining confessions or admissions
21 during homicide investigations, and he
22 made -- pointed to a comment that was made
23 by, I guess, a colleague of yours that what
24 that means is that there is a five to
25 six percent failure rate?

1 K. James McCready 17

2 A I don't know who made that
3 comment. That's idiotic. Bad thing to say.

4 Q Why is that?

5 A Because whether we have a
6 95 percent confession rate, which I quite
7 frankly was not aware of that, we were doing
8 a good job. I know I've always been very
9 careful not to overstep my bounds.

10 As a matter of fact, Mr.
11 Gianelli, who I'm sure you're aware of, used
12 to cross-examine me at various times about
13 the fact that I studied the law. I mean I
14 had always thought that maybe one day when I
15 left the police department I might go on and
16 become an attorney. Specifically, I wanted
17 to be a prosecutor, but I got my nephew to
18 do that now.

19 Q He works in the Suffolk County
20 DA's office?

21 A Yes.

22 Q And which is he, the son of
23 which brother?

24 A He's the son of my brother
25 Gene. Name is Sean.

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K. James McCready 18

Q Okay. In taking confessions, this is not just something you wander in and start talking to people, you have some training on this, yes?

A Well, we went to a couple of schools on it, but I forget, a couple of seminars and whatnot. But I think getting people to talk is an art that not all people have. You know, I try to be able to converse with anybody on any level if I have to, you know.

Q My point is that when part of your skill set as a detective, particularly a homicide detective, is you need to be able to do just that, you need to be able to talk to individuals, get them to talk, and you need to understand where your boundaries are, right?

A Yes, certainly.

Q You studied the law. So it's not just you wander in and start talking to somebody and you get them to quote/unquote confess. This is actually a skill set that you have, yes?

K. James McCready

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2 A Yes.

3 Q It's an important skill set for
4 a homicide detective, yes?

5 A Yes.

6 Q It's something that you
7 trained, you went to school for, you
8 practiced through the course of your career,
9 and then over time with experience you
10 became good at it?

11 A Yes.

12 Q And it's actually fairly
13 serious business, no?

14 A Very what?

15 Q Fairly serious business.

16 A Certainly it is.

17 Q You're questioning somebody who
18 you think is involved in a murder; sometimes
19 the confession is the only evidence you're
20 going to end up getting?

21 A Sometimes, yes.

22 Q And if you don't do your job
23 well in that room, somebody who is guilty of
24 a serious crime could walk out of the room
25 and commit more crimes?

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K. James McCready 20

A Yes.

Q That's certainly one of the things you think about because of concern?

A Yes.

Q I take it you're proud of what you did as a police officer?

A Yes.

Q That you, over the course of your career, probably made hundreds, if not thousands, of arrests; is that right?

A Hundreds, not thousands.

Q And that's, for the most part, tabling individuals off the street who committed a serious crime, they're being punished for the crime they committed, right?

A Yes.

Q And you stop them from committing other crimes, right?

A Yes.

Q Again, it's something you did, you were good at, and you're proud of, yes?

A Yes.

Q You said something about the

1 K. James McCreedy 21

2 Reid technique. Let me ask you some
3 questions if I can about that.

4 By the way, this is a phrase
5 that I've heard in police, "did he go for
6 it." Have you ever heard of that phrase?

7 A Yes.

8 Q What does that refer to?

9 A Did he confess.

10 Q It's a question that's asked
11 among detectives in the course of examining
12 individuals, "did he go for it," did he
13 confess?

14 A Yes.

15 Q In the course of taking an
16 individual's confession or interviewing
17 them, would you agree with the statement
18 that you want to develop information that
19 could be corroborated by a further
20 investigation?

21 A Yes.

22 Q You knew about that back in
23 1988 as well, right --

24 A Yes?

25 Q -- when you were doing this.

1 K. James McCready 22

2 The fact that the suspect may or may not say
3 yeah, I did it or yes, I'm guilty, that does
4 not end the interviewing process with the
5 suspect; does it?

6 A No.

7 Q In some ways that really is
8 when it begins, right?

9 A Yes.

10 Q Person says, okay, I did it and
11 then you want to find out how? You want to
12 know the details of it. You want to find
13 out the motive, develop information from
14 that?

15 A Yes.

16 Q In some cases you want to find,
17 for example, firearms, you want to get the
18 firearms off the street?

19 A Yes.

20 Q Sometimes individuals -- a
21 victim, their body may not have been
22 discovered, you want to find out where the
23 body is?

24 A Yes.

25 Q If a person had accomplices,

1 K. James McCready 23

2 you want to find out if they had accomplice?

3 A Yes.

4 Q You want to be able to continue
5 to question them and continue to get
6 information from them?

7 A Yes.

8 Q Is it fair to say that -- and I
9 don't mean this in a derogatory sense, but
10 at a core level what you do is you convince
11 the individual that it's in their best
12 interest to speak to you, right?

13 A Basically, yes.

14 Q But it's really not in their
15 best interest to speak to you?

16 A Well, it depends on their
17 psyche, I think, at the time. You know, a
18 lot of people like to get things off their
19 chest.

20 Q They do but you'd agree with
21 me, and you studied some law, that an
22 individual sitting in a room with two
23 homicide detectives being questioned about a
24 homicide, their best interest, their legal
25 interest, is to say nothing and talk to a

1 K. James McCready 24

2 lawyer? Talking to you is not something
3 that is going to help them?

4 A That's true.

5 Q And part of what you're able to
6 do, part of what you're trained to do is
7 convince them that although they are
8 confessing to a murder and it means they're
9 going to go to prison for a long time, that
10 it's really in their interest to do this?

11 A Yes.

12 Q And again, I don't mean this in
13 a derogatory sense, but you see there is a
14 form of deception there, right?

15 A Yes.

16 Q I mean at a core level you have
17 to convince the person to do the opposite of
18 what they should be doing, fair?

19 A Yes.

20 Q Part of the Reid technique, do
21 you recall that it was to not give the
22 individual information but to get
23 information from them?

24 A Yes.

25 Q And that presents a little bit

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K. James McCready 25

of a problem for -- not a problem but a little bit of -- I guess it's part of the skill set you need as a homicide detective.

Here's what I mean and tell me if you agree with this. Before you go to interview a suspect you want to gather as much information you can about the crime to use it in the course of interviewing the individual, true?

A Yes.

Q You don't want to walk in there knowing nothing about the crime, you just ask questions?

A Right.

Q Before the interview takes place or the interrogation takes place, you want to make sure you have as much information in your head about what went on?

A Yes.

Q With that information, you want to use that to extract information from the suspect, correct?

A Yes.

Q You don't want to feed them

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K. James McCready 26

what you have and have them regurgitate it
to you; do you?

A No.

Q So that's tricky; isn't it?

A Yes.

Q Because it's tempting to say,
come on, we know what happened here. You
know, tell us the person was shot three
times, you found the body, you're asking him
how many times was the person shot and --

A No, I would not tell them that.

Q You want to get that
information from them even though you have
it yourself, right?

A Yes.

Q You want to see if they know?

A Yes.

Q That's part of the skill that
you employ as a homicide detective?

A Yes.

Q And so you don't ask or you
should not ask leading questions; true, for
the most part?

A Maybe for the most part. You

1 K. James McCready 27
2 don't ask questions where you're going to be
3 feeding them information.

4 Q Right. So when we say leading
5 questions, I think we both know what that
6 means because, for the record, I guess it
7 means where the question contains the
8 answer. So rather than asking what's the
9 weather like today, which would be a
10 non-leading question, I would say, have you
11 seen the snowfall today. It contains the
12 answer in the question.

13 A Yes, I understand.

14 Q Now, is it also true that you
15 know as you're interviewing these suspects
16 that if they confess, and if there is a
17 prosecution, you're going to be asking
18 questions about that later on?

19 A Yes.

20 Q You know that prosecutors are
21 going to ask you questions?

22 A Certainly.

23 Q And defense attorneys are going
24 to ask you questions?

25 A Certainly.

K. James McCready

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Q And in 1988 you had been through that a number of different times; hadn't you?

A Yes.

Q And you were aware of the scrutiny that the Newsday series confession takers had placed on the Suffolk County homicide squad?

A Yes.

Q And you were aware of the scrutiny that the special investigation or state investigation commission placed on the homicide squad?

A Yes.

Q You were aware that the state investigation commission did a whole investigation of what was taking place in Suffolk and offered some criticism?

A Yes.

Q Just curiously, were they fair criticism?

A Well, quite frankly, not having had anything to do with that particular investigation that you're talking about, I

1 K. James McCready 29

2 remember I called to testify and never even
3 interviewed nothing to do with that.

4 Q With the state investigation
5 commission?

6 A That's right.

7 Q Were you represented by anybody
8 during the course of that investigation?

9 A Pardon me?

10 Q Were you represented by an
11 attorney during the course of that
12 investigation?

13 A Not -- The first statement
14 state investigation?

15 Q Right.

16 A No.

17 Q Mr. Spota, Thomas Spota, did
18 not represent you during the course of that?

19 A Not that I'm aware of.

20 Q Did he represent the Detective
21 Association?

22 A Oh, yes, he did. I guess he
23 did but I have never had a conversation with
24 Thomas Spota about that.

25 Q Okay. You know who he is,

K. James McCready

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1 obviously, right?

2 A Of course.

3 Q And another thing that the Reid
4 technique taught you was to not use police
5 language like sexual assault, things like
6 that. You let the suspect's own words be
7 used, correct?

8 A Yes.

9 Q Now, Mr. Rein was asked this
10 yesterday and I think that you've commented
11 on this before, but you're generally aware
12 of a phenomenon of false confessions, yes?

13 A Yes.

14 Q You know that that's occurred
15 during the course of interrogations where
16 individuals will say they committed a crime
17 when, in fact, it turns out they didn't?

18 A Yes.

19 Q And we don't dispute that that
20 goes on, right, that there are times
21 individuals sit down in a room with homicide
22 detectives and say, yes, I committed a
23 brutal murder, or a murder, or other serious
24 crime, and further investigation reveals
25

K. James McCready

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that that information was false?

A I guess so. It never happened to me so I don't know.

Q As far as you know?

A Yeah.

Q Right, there is no case that we can go back to absent this one for the time being? There is no case we can go back to with you and you would say yeah, I was involved in taking a statement and it turns out the person that was confessing to the crime was absolutely innocent? That never happened to you?

A No.

Q You're sure of that?

A Absolutely.

Q Did Reid teach you that some people would be more vulnerable to giving false confessions than other people with low IQ, people who are emotionally distressed? Did you learn that?

A I don't recall that.

Q Would you agree with me generally that an individual who's being

1 K. James McCready 32

2 interviewed by two seasoned homicide
3 detectives is going to be perhaps more
4 vulnerable to a false confession if they
5 don't have an intelligence level of the
6 average person?

7 MR. DUNNE: I object to the
8 form of that. Go ahead and answer
9 the question.

10 A What's that?

11 MR. DUNNE: Go ahead and answer
12 the question.

13 A I don't know. I don't have an
14 opinion one way or the other.

15 Q As a matter of common sense,
16 wouldn't you think that it would be easier
17 for someone who is not so smart to kind of
18 give a false confession to somebody who's
19 very intelligent?

20 A No.

21 MR. DUNNE: Again, I'll object
22 to the form.

23 A No.

24 Q How about somebody who is
25 emotionally upset or distressed?

1 K. James McCready 33

2 A No. Well, how can I phrase
3 this? Not necessarily. Not necessarily.

4 Q Not necessarily but it makes
5 them -- My question wasn't everybody who is
6 emotionally distressed doesn't automatically
7 give a false confession. What I asked was,
8 would you agree with me that somebody who
9 emotionally distressed is more susceptible
10 to that kind of phenomenon?

11 A I'm having a little difficulty
12 hearing because I'm trying to anticipate
13 something that I'm trying to...

14 Q You can do whatever you like
15 but the best thing to do is answer the
16 question I'm asking.

17 A What I'm trying to tell you is
18 that I don't necessarily agree with all of
19 that.

20 Q You don't have to. How about
21 somebody who is younger rather than more
22 mature, would you agree with me that they
23 are more likely to provide a confession that
24 was false?

25 A Again, I think it would be all

1 K. James McCready 34
2 on the individual basis. I don't think it's
3 necessarily applicable to any particular --
4 You can't say like a 14-year-old is more apt
5 to confess than a 24-year-old. I don't
6 think that's necessarily true.

7 Q So your testimony is that
8 intelligence against emotional stability,
9 distress and age, have nothing to do with an
10 individual's susceptibility to providing a
11 false confession?

12 A I'm not saying that. What I'm
13 saying is that you have to take each case on
14 an individual basis. That's what I'm
15 saying. Take each case on an individual
16 basis.

17 Q Would you agree with me that
18 those factors that I just listed are factors
19 that you would look at when looking for
20 individuals that are likely or more likely
21 to give a false confession?

22 A Yes. Say that again.

23 Q Would you agree with me that
24 those are factors that you want to take into
25 account when assessing whether or not an

1 K. James McCready 35
2 individual is likely to give a false
3 confession?

4 A I guess so.

5 Q Of course it does, right?

6 A Yes.

7 Q I mean just your own experience
8 when you were younger, you know, peer
9 pressure meant a lot more to you than it did
10 when you got more mature, yes?

11 A Yes.

12 Q Which is a natural part of
13 growing up and becoming an adult?

14 A Sure.

15 Q Did you have a practice of
16 being careful with interrogation techniques
17 when you're interrogating individuals who
18 were emotionally distressed, unintelligent
19 or young?

20 A My interrogation technique was
21 always appropriate to whatever the
22 circumstances were.

23 Q Okay. Did you pay any special
24 attention when you were interrogating
25 individuals who perhaps had a low IQ or were

1 K. James McCready 36

2 emotionally distraught?

3 A Yeah, I guess.

4 Q How about when you're
5 interrogating teenagers as opposed to
6 adults?

7 A Again, it's all on an
8 individual basis.

9 Q I need to ask you some
10 questions but let me ask this first. Sorry.

11 The reports you prepared in
12 connection with the Martin Tankleff case --

13 A Yes.

14 Q -- those were prepared by -- I
15 guess the ones you prepared were prepared by
16 you; is that right?

17 A Yes.

18 Q The one thing and I think we
19 have this from yesterday.

20 MR. BARKET: Do we have
21 yesterday's exhibits? I don't want
22 to remark the same things. I'm
23 looking for the supplemental report,
24 the three-page supplemental report.

25 MR. POLLACK: I'll find it for

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K. James McCready 37

you.

MR. DUNNE: It's 59.

Q I'm going to show you what's been marked as 59 and I'm going to ask you some questions about it. Could you take a look at that.

A Yes.

Q That's the supplemental report. That's basically a summary of your investigation from September 7th of 1988; is that right?

A Yes.

Q Now, there's a date at the upper left-hand corner, September 14, 1988?

A Date of report.

Q I'm not sure I follow.

A That's the date I wrote it.

Q You wrote the report a week later?

A Yeah.

Q Okay. Did you have notes that were made contemporaneous?

A Yeah, you have all the notes. You have everything.

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K. James McCready 38

Q Did you type this yourself?

A No.

Q You write it up and hand it in so the secretary types it for you?

A Yes.

Q And you review and sign off on it?

A That's right. That's why when you see a couple of mistakes, you see my initials.

Q That's you reviewing the typos?

A Yes.

Q You give to your supervisor who is Detective Sergeant Doyle?

A Yes.

Q He was here today too?

A Yes.

Q And he was here yesterday?

A Yes.

Q Everybody agrees to it. You agree it's accurate and sign off?

A Yes.

Q So this report was completed on the 14th but it represents a kind of --

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K. James McCready 39

A Synopsis.

Q Of everything that took place
and different notes; is that true?

A Yes.

Q Okay.

MR. BARKET: I don't know if
this has been marked and I don't
think I have an extra copy right
now, but I'll mark it and then we'll
have to make a copy of it later.

(Whereupon, Plaintiff's Exhibit
79 was marked for identification.)

Q Mr. McCready, I want to show
you what's been marked as Plaintiff's
Exhibit 79. I'm going to ask you if you
recognize those as being your notes?

A Yes.

Q That's your handwriting?

A Yes.

Q There is several pages. Just
thumb through it and make sure they are all
your notes.

A (Complying.)

Q You're free to read this if you

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K. James McCready 40

want. I just want you to make sure they're
your notes?

A They appear to be my notes.

Q Let's just set those aside for
a second and we'll come back to them as we
need to. I can make a copy for Mr. Dunne in
the meantime.

One of the things that I wanted
to ask you about in terms of your ability to
interrogate suspects and obtain
confessions -- How could I phrase this?

Do you understand the power
that you possess as an individual when
you're doing this?

A Do I what?

Q Do you understand the power
that you possess in conducting these
interrogations?

A I don't know. I would not call
it a power.

Q Well, it's certainly a unique
skill set; isn't it?

A Yes, it's a skill.

Q And it's unique. Not everybody

1 K. James McCready 41

2 could sit in a room and convince everybody
3 that it's in their best interest to confess
4 to a homicide?

5 A Probably correct.

6 Q And you were particularly good
7 at it, which means you were good at your
8 job, right?

9 A Yes.

10 Q And so in that sense -- can I
11 overstate this -- it's sort of a gift; isn't
12 it? You said people are born with the
13 ability to get people to talk?

14 A It depends on the individual;
15 in their own personal experiences also.

16 Q Sure. And it's not just a
17 conversation you're having with the suspect,
18 it's actually a technique that you employ as
19 part of your job and you get these
20 individuals to admit to you crimes that they
21 engaged in?

22 A Yeah.

23 Q I guess you do it when you're
24 interrogating somebody, you do it with
25 somebody you either suspect has committed a

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K. James McCready 42

crime or you believe has committed a crime,
right?

A Yes.

Q You would not use this
technique on anybody who you did not think
had anything to do with the crime; would
you?

A Not necessarily, no.

Q I'm curious about how you
govern yourself.

A You're curious as to how I
govern myself?

Q How you govern yourself.
You're sitting in a room with a suspect and
your suspicions may be true, you may have
great gut instincts but they are not
perfect; are they?

A No, nobody is perfect.

Q I'm curious as to how you
govern yourself to get people to confess to
crimes and when do you simply sit their and
interview somebody to find out information?
How do you draw distinction between those
two?

1 K. James McCready 43

2 A I don't think I ever have. I
3 just try to be me, that's all. I don't
4 pretend to be somebody I'm not.

5 Q Right, but being you in
6 different context. You don't talk to people
7 in restaurants the way you talk to them in
8 an interrogation room; do you?

9 A No, but it depends on the
10 situation too. I mean, you know, I've had
11 conversations, I'd say, with people in
12 restaurants that were similar, if you will,
13 to doing an interrogation.

14 Q In what way?

15 A Well, I mean you ever get in a
16 bar fight?

17 Q I'll take the fifth.

18 A Well --

19 Q I mean I guess I started on
20 this road I have to finish it a little bit.

21 How does a bar fight -- What
22 are the parallels between a bar fight and
23 interrogation of a suspect?

24 A Well, what I'm getting at is
25 I've had bar fights, all right, and the most

K. James McCready

44

1 recent one a guy cleaned my clock. That was
2 about -- I don't know how many years ago --
3 it was because of a conversation I was
4 having with him with regard to his son and
5 it was almost an interrogation of the
6 father.
7

8 Q And I guess that's exactly what
9 I was asking you, that at times you actually
10 employ this technique, you begin to
11 interrogate people. And so my question to
12 you is not in the bar fight context but in
13 the context of your job. When you're
14 interviewing individuals, sometimes you're
15 just interviewing witnesses, right, you're
16 not interrogating them?

17 A Right.

18 Q Other times you literally are
19 interrogating suspects?

20 A Right.

21 Q How do you decide?

22 A Well, I don't know what you're
23 getting at. If a guy is a suspect, if he's
24 a witness, he's a witness.

25 Q Well, they don't come with

K. James McCready

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1 labels. The people do not arrive with
2 little name cards that say "suspect" or
3 "witness." Who gets to decide if they are
4 suspect or witness?
5

6 A It depends at what point in
7 time. They can become -- They're a witness
8 to begin with then they become a suspect.

9 Q Who decides that?

10 A Generally, the individual
11 because based on what he says, his demeanor
12 and his answer to certain questions, things
13 of that nature, then he goes from being a
14 witness to becoming a suspect.

15 Q In whose mind?

16 A In my mind.

17 Q So it's your judgement?

18 A Yes.

19 Q So an individual that you're
20 interviewing that you think is a witness,
21 you interview one way; an interview or
22 interrogation of someone you believe is a
23 suspect is an interrogation and you go about
24 it a different way, yes?

25 A Yes.

K. James McCready

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2 Q And that's part of what you're
3 trained to do as a detective, right?

4 A Yes.

5 Q Those kinds of judgements are
6 part of your job; aren't they?

7 A Yes.

8 Q You're talking to somebody and
9 you're trained and you're experienced and
10 you're supposed to be able to discern that, who
11 is just a witness and who is potentially
12 involved in this crime?

13 A Right.

14 Q And based upon those judgments
15 that you make you then interact with the
16 individual differently; true?

17 A Yes.

18 Q Now, you mentioned the bar
19 fight so let me -- part of the little
20 checklist they give us as lawyers to ask at
21 deposition is prior arrests, so I'm assuming
22 that some of the bar fights you were in
23 resulted in arrests?

24 A In arrests?

25 Q Yes.

1 K. James McCready 47

2 A Yes.

3 Q How many times?

4 A Two.

5 Q What was the most recent one?

6 A Down Little River, South
7 Carolina. The guy that cleaned my clock got
8 locked up.

9 Q He cleaned your clock. I
10 thought the winner gets arrested, the loser
11 goes to the hospital. You lost and got
12 arrested?

13 A I lost; he got arrested.

14 Q Oh, okay. Were you arrested?

15 A I didn't arrest him. I
16 couldn't arrest him.

17 Q Did you get arrested?

18 A No.

19 Q I'm asking you about instances
20 where you, yourself, were charged with a
21 crime.

22 A The only time I was charged
23 with anything was over Shuckman (phonetic),
24 and that wasn't over a bar fight, that was
25 over him -- Well, why don't we get right

1 K. James McCready 48

2 down to the nitty gritty, right, with Mr.
3 Shuckman, all right, because you're going to
4 ask me a million questions about it anyway.

5 Q I'm actually --

6 A I might as well tell you the
7 whole story from beginning to end.

8 Q Go ahead. Sure.

9 A It was St. Patrick's day. I
10 had been at the St. Patrick's Day Parade
11 with the grand marshall who's the sheriff of
12 Suffolk County at the time, Pat Mahoney, and
13 with the supervisor of the Town of
14 Brookhaven who was John Powell at the time,
15 myself and the undersheriff, Eddie Morris;
16 the reason being that we were all together,
17 was I was asked by the St. Patrick's Day
18 committee from Rocky Point to see if I could
19 raise money for the United States Marines
20 who were staying at Danford's Inn down in
21 Port Jeff.

22 All their food was given to
23 them but the rooms had to be paid for so I
24 went to the SOA Detectives Association and
25 the PBA and I got donations from them; said

1 K. James McCready 49

2 that we could pay for the marines' rooms.

3 As a result of that, I was
4 invited by Pat Mahoney and other people to
5 join them Friday night before St. Patty's
6 Day at, you know, a festival park that they
7 were having for all the marines.

8 The day of the parade, after
9 everything was all finished and said and
10 done and over with, I went to, you know,
11 Harry's. Then, Harry's Bar & Grill on
12 Broadway in Rocky Point -- I'm tying
13 pictures in my mind that's all -- and at
14 that time I was separated. I was living
15 around the corner and -- Garland Road
16 (phonetic) -- I owned a house over there.
17 So I went to Harry's and a guy -- I don't
18 know who he was at the time -- when I went
19 up to the door it was a guy named Teddy. I
20 come to find out his name is Teddy, Teddy
21 DeLuca. I never knew Teddy's full name
22 until all this stuff happened -- he was at
23 the door kind of like a bouncer and the
24 place was crowded and they were selective
25 about who they were going to let in the door

K. James McCready

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and whatnot.

As I was going in the door, this guy Shuckman comes up, pushes me to the side and bolts in to the bar. I didn't say anything. I didn't do anything. He's in the bar and he starts bothering some other customers and whatnot and the bartender, Bob, who was a retired New York City detective, threw him out of the bar. Again, I was not involved in it at all.

After Shuckman went outside, however, he started -- he slowly stole a banner off the front of the bar. A bunch of people went out looking for him and I did not. They went out looking for him and they could not find him and they came back. A short while later somebody pointed out to me that he was across the street.

At that time, I owned a corner of strip stores, strip stores, four or five stores there on the corner, and he's throwing rocks and behind me was -- I forget the name of that place, they since tore it down. There is another bar and they had

1 K. James McCready 51
2 like an antique phone booth outside.
3 Shuckman took rocks and threw them through
4 the glass at these old phone booths,
5 whatnot, and about that time I saw the light
6 come on, timed lights on the back of the
7 building in case burglars come up, you know,
8 the lights come on.

9 Q Motion detectors?

10 A Right. I saw the lights come
11 on and I saw him behind my building so I
12 said, oh. The next thing I know he throws a
13 rock through the window in one of my stores
14 so I went outside of Harry's, I got in my
15 Jeep, and I drove as though I was leaving
16 and as I got up to where Shuckman was I
17 threw the Jeep in park and got out and I
18 grabbed him and he took me and knocked me
19 over a log or something to the ground and
20 took off running.

21 I took off chasing him. I
22 chased him from there all the way down to
23 the gas station down by the elementary
24 school there in Rocky Point.

25 As I was chasing him to the gas

K. James McCready

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station, this guy Teddy DeLuca comes driving up and I'm in my Jeep and Shuckman runs into the gas station there. Well, the guy in the gas station called the police. The attendant called the police and uniformed cars came down.

They got Shuckman and they asked me what I wanted to do. Do I want him locked up or what, and I said no. I said it was St. Patty's Day, we'll let him go. He's going to bring me back the banner or flag or whatever it was he was supposed to give that back to me, part of the deal for me not having him locked up.

To make a long story short, we're walking down the road and now the cops had left. The uniform guys left. We're walking down the road now all of a sudden he gets antsy and he wants to fight. We get in a fight. And what happened was, you've seen hockey fights where the guy's Jersey comes off and they fight.

Q Sure.

A His jersey comes off. I

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K. James McCready 53

knocked him on the ground. He went to kick me in the balls.

Q In the groin or the balls, okay.

A So I grabbed his foot and with that I grabbed his pants. What he had on was basically sweatshirt and sweatpants, that's it. No underwear. And when I grabbed them, I pulled them off so now I had him for about up to here and so I said, look, I'm not putting up with this shit. I said, you want your clothes, you'll get your clothes back when you bring me the flag. And I left him in the street there.

Last time I saw him he was running down the road with two garbage can covers on him, one in the front and one in the back. So I went back to Harry's and had a couple of more beers and I went home.

Q How did you end up getting arrested for that?

A Mr. Catterson, you know him?

Q I --

A James Catterson?

1 K. James McCready 54

2 Q You're referring to James
3 Catterson, he's a DA at this time?

4 A James Catterson decides that I
5 robbed this guy when I took his clothes.
6 They indicted me for assault and robbery.
7 It cost me \$17,000 for Mr. Spota to
8 represent me.

9 Q You actually were represented
10 by two lawyers at the time, Mr. Spota and
11 Billy Keahon?

12 A Billy Keahon was pro bono
13 through Teddy DeLuca.

14 Q He was charged also?

15 A What's that?

16 Q Mr. DeLuca was charged also?

17 A Yeah.

18 Q What was he charged with?

19 A Same thing. Because we were --
20 it was the three of us walking down the
21 street.

22 So one thing leads to another
23 and they indicted me so I had to go out to
24 county attorney's office out there and I
25 surrendered myself to -- I forget which

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K. James McCready 55

detective investigator was or whatever and we went to trial. And when we got to trial and the people presented their case, they failed to present a prima facia case and as a result the case was immediately dismissed by -- I forget the judge's name.

Q Pitts?

A Yeah, that's it Pitts. He dismissed the case. That was the end of it.

Q Was that the only time you've ever been charged with a crime?

A Yeah.

Q You were not charged with assault down in the Carolinas?

A Assault in the Carolinas?

Q Yeah, were you charged with any kind of crime in North Carolina or South Carolina?

A No.

Q Do you have any prior losses --

A Oh, wait a minute. Wait a minute. Hold on. It's a misdemeanor. No, it's a crime. I guess it's a crime. I don't know. I got charged with a DUI.

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K. James McCready 56

Q Oh, okay.

A It was dismissed.

Q It was dismissed, okay. Just to go since you mentioned it, were you drinking the night you had the problem with Mr. Shuckman?

A Shuckman?

Q Yes.

A Yeah, but I wasn't loaded or anything.

Q Prior lawsuits, have you ever been involved in any prior lawsuits?

Mr. Shuckman sued you as a result, right?

A I don't remember him suing me. I don't think so.

Q Any other lawsuits that you have been involved in?

A I'm trying to remember. I don't remember. You know, I was like in this case being Defendant or whatever but I don't remember what it was about. I don't remember who the hell it was.

Q Have you been involved in any

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K. James McCready 57

other litigation of any sort? Divorces,
civil lawsuits, bankruptcy, anything like
that?

A Oh, I've had -- well, and I'm
sure you're going to get to this too so I
might as well tell you this right now.

Q I'm not sure to what you're
referring to but go right ahead.

A You're going to start asking me
about Shari Rother, Ronnie Rother, the
restaurant and all that stuff out there. So
you want to know the truth? I had to file
personal bankruptcy by the time I got done
with that stupid restaurant out there.

Q You're referring to the
restaurant you went into business with with
Mr. -- is it Ron Rother?

A Ronald Rother.

MR. BARKET: The videographer
tells me that I should stop right
around now so I'll do that. We'll
take a break.

THE VIDEOGRAPHER: We're off
record at 12:22 p.m.

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K. James McCready 58

(At this time, a brief recess
was taken.)

THE VIDEOGRAPHER: Tape 2.
We're back on record at 12:32 p.m.
You may proceed.

Q I just want to kind of took a
poll on our break and I got to a couple of
areas I wanted to ask you about; one that
you mentioned. The one that you mentioned
was you said among the awards received you
received something from the Emerald Society?

A Yes, Emerald Society award for
valor.

Q How many individuals received
that?

A There is only two to my
knowledge; me and Jimmy Hughes, the vice
president of the Dix Association.

Q What did you receive it for?

A I killed a guy in a bank
robbery.

Q Was that the same shooting that
you spoke about earlier?

A Yes.

1 K. James McCready 59

2 Q What year did that take place,
3 by the way?

4 A June 9, 1975.

5 Q Were you a police officer then
6 or detective?

7 A Police officer.

8 Q Another thing that somebody
9 asked is what was the interrogation you were
10 doing in the bar of the father, just out of
11 curiosity?

12 MR. DUNNE: I'll object for the
13 purpose of the record but I want to
14 hear the answer too.

15 A What happened was the kid
16 was -- the mother and father were separated.
17 Their son who was in his thirties or
18 whatever, I was doing construction work for
19 his mother and I actually got the job
20 through him and he wanted -- if the job was
21 \$100, he wanted me to charge his mother a
22 150 and give him \$50 back. I wouldn't do it
23 so we got in an argument and as a result of
24 that argument every time I saw this kid he
25 would break my shoes.

K. James McCready

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So one night in this particular place, Pat & Mike's down in South Carolina down there, I happened to go into the bathroom as he was coming out and, you know, he says -- made some snide remark and whatnot. I just let it slide and I went in and I came back out and I see him exiting the building so I went over to the window. I'm looking out the window because I know what kind of kid he is, he would scratch my car or do something like that or whatever. He knew what I drove so I was watching him to make sure he didn't do anything to my car and that's when his father came up to me and says to me, what are you looking at? And I told him, some dirt bag out there might damage my car or whatever. Well, that's my son, you know. I said, really, well your son is a piece of shit. So anyway --

Q He didn't react well to that?

A No. So what happened was he said to me, listen, Marty's coming right back. He said, why don't we go outside and I'll get his ass straightened out because I

1 K. James McCready 61

2 explained to him, I said he's been breaking
3 my balls and all this stuff. Excuse my
4 language.

5 Q You said Marty's coming right
6 back? The kid's name was Marty?

7 A What's that?

8 Q Did you say Marty? The kid's
9 name is Marty?

10 A Yes, Marty Palermo -- Paterno
11 rather. And the funny thing is his father's
12 name was Joe, Joe Paterno, not the same guy.

13 So anyway, the old man he looks
14 outside and he says, oh here he comes now.
15 So he opens the door like he's going to hold
16 the door for me, right, and I come walking
17 out the door. He blind-sided me upside my
18 head. Holy God, I thought I had gone to the
19 count and he proceeded to pummel me.

20 Q How long ago was that?

21 A Let me think. I'm 65 now so
22 it's seven years ago.

23 Q Okay. Let me move from the
24 entertainment section, if I can. People
25 want to know this so we asked. To some

1 K. James McCready 62

2 questions about -- You retired from the
3 police department when in 19 --

4 A October 24, 1989.

5 Q 1989. And the robbery arrest
6 was in 1991; is that right?

7 A Yeah.

8 Q Right after the start of the
9 first Gulf war, right?

10 A What's that?

11 Q Right after the start of the
12 first Gulf war?

13 A I guess so.

14 Q So you had been out of the
15 police department for two years?

16 A Yes.

17 Q You said something about -- At
18 that point, were you in business with Ron
19 Rother or not yet?

20 A We had already gotten --

21 Q You had already --

22 A I got rid of him -- See, I
23 didn't bring him into that.

24 Q We'll talk about that later.
25 You were already out of that business?

K. James McCready

63

A Yes.

Q And you said you owned a store or two or strip mall; what was it?

A I had a number of friends of mine investors, friends of mine who were investors we bought this little strip mall across the street from Harry's Bar and the corner of Broadway and I forget the name of the other street and renovated the building.

Q What was the name of the business, the strip mall?

A We had no business at that time. It's just I had a business name but I was McCready and Associates but there was nothing on paper. You know, I was the guy doing everything. I had people working for me.

Q I don't follow. It was when you say it was a strip mall, I think of a pizza place, a deli.

A That's what it was. There was a deli; there was an office upstairs. There was a deli downstairs on the corner; there was a fishing store, fishing tackle and

1 K. James McCready 64

2 equipment store on the end. I forget what
3 the other two were. It's changed now.

4 Q It was in Rocky Point?

5 A What's that?

6 Q It was in Rocky Point?

7 A Yeah.

8 Q And if I understand you
9 correctly, you owned the stores then you
10 rented to individual businesses?

11 A Right.

12 Q Okay. And did you do the
13 construction work as well?

14 A I did the construction work.

15 Q Did you still have a
16 construction business at that time?

17 A Do I still have one now?

18 Q Did you still have it at that
19 time?

20 A Oh, yes.

21 Q Okay. You said you had some
22 other investors?

23 A Yeah.

24 Q Who were they?

25 A Jimmy Keating. What was Fred's

1 K. James McCready 65

2 last name again? He's a dentist. I'll
3 think of it. They were friends and
4 neighbors.

5 Q And how did that business go as
6 opposed to the bar with Rother?

7 A Oh, that went pretty good. We
8 were all making money on it. Then when the
9 economy went down on us we sold the
10 building. I had a couple of rental houses,
11 I sold them. The last rental house I had I
12 had held the mortgage on it for a nice young
13 fellow and he got married and had a baby and
14 then he did some work on the house himself
15 and he screwed up the electrical on it and
16 he set the house on fire. I ended up I
17 collected on the balance on the mortgage.

18 Q Where was that house?

19 A In Sound Beach.

20 Q And it was in your name, you
21 said, the rental property but the mortgage
22 was to you or the deed was to you?

23 A Yes. There were two houses
24 there so I refinanced through Marine Midland
25 Bank and I sold one off and then I was able

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K. James McCready 66

-- This guy, I think he was like 19 at the time, he didn't have the wear with all to get a mortgage so I said, I'll tell you what I'll do, I'll hold the mortgage for you. He gave me \$10,000 down and I held the \$65,000 mortgage for him and then I guess it was '96 when the house burned down and then I got -- I don't know -- \$32,000 out of it and that's when I moved to South Carolina.

Q When you retired, did you retire or did you go out on three quarters?

A No, I retired.

Q Just so that we know, three quarters, officers are injured they can get three quarters of their salary?

A Yeah, I know.

Q You know, I think I know, but we want everybody to know. They get three quarters of their salary for life tax free --

A That's right.

Q -- if they are injured. But you simply retired -- You retired?

A Right.

K. James McCready

67

Q How long were you on the job?

A Twenty years to the day.

Q Twenty years to the day?

Including the time in the City?

A Yeah. I bought that City time.

You know, it's six months. It was cheap when I got on Suffolk County at the time to do that.

Q Okay. Let's talk a little bit about this particular investigation. How did you all work assignments then? Do you guys use the term squealing or catching cases?

A No, no. This is a mistake on my part. For a number of years I always thought that I had standby the night of this murder and sometimes I've got a lot of things on my mind and I forget things.

To make a long story short, it wasn't me. I didn't have the standby, Mike Carnegie had the standby. And apparently Mike was notified of the homicide and I guess Mike in turn notified Sergeant Doyle and he then called me because of my

K. James McCready

68

proximity to the area to go handle the scene. That's what my assignment was originally was to handle the scene.

I was at my -- We just moved my shop. We were moving from one part of Girodyne (phonetic) to another. We were moving the shop and before I went to work on a 9:00 to 5:00 I'd go over -- I live right around the corner from there -- I'd just go over to the shop every morning, get my guys going, send them on their way and then I'd go off to work.

Q Was that a scheduled work day for you or were you supposed to be off that day?

A No, it was a scheduled workday.

Q Scheduled workday for you?

A Yes.

Q And proximity, how far was your business from Belle Terre?

A Well, I lived in Head of the Harbor. The business was basically in St. James, which is right next door, and then from Girodyne there it's on 25A and I'm

1 K. James McCready 69

2 going to say it's -- if I'm hurrying, I
3 probably made that I'm going to say 12 to
4 15 minutes. I didn't think it even took me
5 that long. I'm not sure.

6 Q But when you were heading there
7 you thought it was you were assigned to
8 investigate this case? As you're heading to
9 the --

10 A No, no, no. For some reason
11 over the years I had forgotten this.
12 Carmody was originally assigned to the case,
13 but in view of the way things developed in
14 the case, Sergeant Doyle decided to turn the
15 case over to me and that's why when we went
16 to California, I went -- me, Doyle and Eddie
17 Deblasi (phonetic) went to California to
18 retrieve Steuerman.

19 Q Let me back up a little bit. I
20 want to ask you a few questions about --
21 you're at work that day and you get a page
22 or you had beepers in the PBA?

23 A He beeped me, didn't he? He
24 beeped me.

25 Q You're referring to Sergeant

K. James McCready

70

Doyle?

A Yes.

Q Okay.

A He beeped me to call him at home. I called him at home and he told me, go to the address, and then when I got there I didn't know where the hell I was going. And it might have been Leahy, he was a uniformed sergeant there, but for some other reason I thought it was somebody else who had given me the directions.

Q What was the conversation you had with Detective Sergeant Doyle?

A Basically, that we had a homicide and he wanted me to cover the scene and he gave me the address to the scene.

Q Did he tell you anything else?

A Not that I remember. Not that I recall right now. Very possibly may have. For some reason -- I don't know. I'm not a hundred percent on this, but for some reason I might have known -- he might have said something to me about a card game because I know when I was on my way there I was

1 K. James McCready 71

2 thinking to myself, oh, that's happened
3 before where card games people run high
4 stake card games and guys come in and stick
5 them up.

6 Q Let me stop you for a second
7 there and ask you, as you're driving there,
8 you're thinking this is a card game?

9 A I'm not sure. For whatever
10 reason, I'm not sure.

11 Q And you think that Detective
12 Sergeant Doyle told you that this was a card
13 game?

14 A I don't remember. But I'm just
15 saying in my head it seems to me for some
16 reason --

17 Q Let me stop you and maybe I can
18 refresh your memory a little bit because
19 there's a couple of news clips that I wanted
20 to show you.

21 Do you remember giving an
22 interview to a reporter back in 1990 for
23 Channel 12 News? You sat down with an
24 interviewer with him about a half hour and
25 talked about the case?

K. James McCready

72

A Doug Geed?

Q Well, Doug Geed you did later on but no, back in 1990?

A I don't know. I don't remember.

Q Okay. You remember giving an interview to Doug Geed?

A Yes.

Q You remember telling Doug Geed that as you're driving there that you understood that this was some kind of card game and that's all you knew about the case?

A Maybe I did, but for some reason I had that in my head. I don't know where I got that from. It only could have come from Doyle.

Q So your testimony is that if you knew about the card game Detective Sergeant Doyle is the person that had to tell you about it because you didn't talk to anybody else?

A That's what I'm thinking. Unless Leahy told me that. I'm not sure. For whatever reason, I thought it was going

1 K. James McCready 73

2 to be a stick up of card game or something
3 like that.

4 Q A stick up of a card game?

5 A Yeah.

6 Q So people come in the house?

7 A Yeah, people come in. There's
8 a lot of bad guys out there. They find out
9 you have a high stakes card game going
10 they'll come in and stick you up and rob
11 you.

12 Q How many murder investigations
13 were there in Belle Terre?

14 A Murder investigations in Belle
15 Terre? I don't know. I have no idea.

16 Q That you were involved in?

17 A It's only one that I'm aware
18 of.

19 Q That's a fairly affluent
20 community, correct?

21 A Yes.

22 Q It's kind of a part of Port
23 Jefferson sort of but it's a private
24 community, very wealthy, right on the north
25 shore in the bluff of Long Island Sound?

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K. James McCready 74

A Yes.

Q And actually from Marty's house, the Tankleff house. It was literally on the bluffs but you had a cliff off his backyard and Long Island sound and even on a reasonably clear day you could see Connecticut?

A Yes.

Q Once you arrive there, how soon did you suspect Marty was involved in this?

A Not until -- He told me, you know, I asked him what happened and he explained to me everything. I would have to refresh my memory but I'm guessing that I became suspicious of him after Sergeant Doyle and Norman Rein spoke to him.

Q Is it fair to say he was a suspect in your mind almost immediately?

A No, not almost immediately.

Q Let me, not almost immediately? An hour later, half hour later?

A Let me look at my -- I gotta look at my 84 report.

Q Your 84 reports?

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K. James McCready 75

A Yes.

Q There's a number at the top
just tell us what number that is.
Fifty-nine?

A Yeah, I'm trying to think. You
got the scene log, the crime scene log, who
got there at what time?

Q I may but let me ask -- I think
we do in here someplace actually, but let me
ask a few questions.

Do you remember giving an
interview to Erin Moriarty of 48 Hours?

A Yes.

Q You remember telling her that
you believe Marty was involved in this
almost immediately after you arrived?

A I guess. I might have said
that, yes.

Q Were you interviewed by the
Probation Department after Marty was
convicted?

A No.

Q No?

A Not that I'm aware of. Not

K. James McCready

76

that I remember. I don't think so.

Q I'm going to show you what's been marked as Plaintiff's Exhibit 63 and on the first page it says, statement of complainant/victim, and it says, the complainant Detective McCready, formally of the Suffolk County Police Department Homicide Squad and now retired, was contacted on 8/10/90. Detective McCready stated that on the date of the offense the defendant was found at the residence, and it continues.

Just take a look at that paragraph. Does that refresh your memory that you, in fact, were interviewed by the Probation Department in connection with their investigation of Marty after the conviction?

A I read that. I don't remember saying that.

Q You do remember being interviewed by the Probation Department?

A I do now, yes.

Q According to the probation

1 K. James McCready 77

2 officer -- if I could just have that back,
3 I'm going to read it -- it says that,
4 according to Detective McCready the
5 investigation focused on the defendant
6 immediately because --

7 A No, it doesn't say almost
8 immediately?

9 Q This says immediately.

10 A Oh, does it?

11 Q Because of his demeanor and his
12 inappropriate response particularly in
13 regard to the finding of his parents dead
14 and dying.

15 You don't dispute that you said
16 that to the Probation Department back in
17 1990; are you?

18 A I may very well have said it,
19 yes.

20 Q So is it correct that you had
21 suspicions at the very least of Marty as
22 soon as you arrived at the scene?

23 A I had some suspicions, yes,
24 based on the information I was getting, yes.

25 Q And part of this -- I mean

1 K. James McCready 78

2 there are three people in the house; one is
3 deed; one is dying and one is walking around
4 outside fine?

5 A Right.

6 Q And so you immediately thought
7 domestic teenage kid --

8 A No.

9 Q -- parents. No?

10 A No, that's not what I thought.

11 Q Did you have a reaction to his
12 emotional; if you will?

13 A Well, I found his emotional
14 demeanor was like -- as a matter of fact, I
15 think I used the words in the courtroom. If
16 that were me in that situation, I would have
17 been a box of rocks. I think that's exactly
18 what I said in court. I always felt that
19 his emotional -- inappropriate emotional
20 response is what I always termed it with
21 regard to him.

22 Q You know what's curious about
23 that, you thought that his responses at that
24 time were, I guess, he didn't appear to be
25 upset to you?

1 K. James McCready 79

2 A That's right.

3 Q He was casual?

4 A Right.

5 Q And you described him as simply
6 answering questions and as if nothing had
7 happened; is that right?

8 A Yes.

9 Q And did you ever listen to his
10 911 tape?

11 A Yes.

12 Q He sounds pretty excited there;
13 doesn't he?

14 MR. DUNNE: I'll object to the
15 form but go ahead and answer that.

16 A Yes.

17 Q And did you talk to the
18 neighbors who described Marty as running out
19 of the house in shorts and bare feet
20 screaming "murder, murder"?

21 A Yes, Morty Goldman --

22 Q Right. And you talked to the
23 police officers who first arrived at the
24 scene who described Marty as screaming,
25 "murder, they murdered my parents"?

1 K. James McCready 80

2 A I don't remember them telling
3 me that but it's possible. I don't know.

4 Q Well, how do you account for
5 the difference in the descriptions between
6 Marty and the 911 tape, Marty with his
7 neighbor, Marty with the police, and what
8 you say Marty was like to you?

9 A Because we're talking about a
10 time frame here. What are we looking at, an
11 hour and a half and he's all over it
12 already? He's finished? He's all cried
13 out? Give me a break.

14 Q But you're saying he's all over
15 it. He has family and, actually, not only
16 his family but the family to the victim --
17 He was adopted, right?

18 A Yes.

19 Q And the biological family, the
20 brothers, the sisters, the nieces, the
21 nephews, the aunts, even his stepsister at
22 the time all supported Marty; didn't they?

23 A Initially, yes.

24 Q Except for his stepsister, they
25 all do to this day, correct?

1 K. James McCready 81

2 A And Ronnie Rother.

3 Q Well, Ronnie Rother is the
4 stepsister's husband? The guy who, forgive
5 me, but beat you out of some money, right?

6 A No, he didn't beat me out of
7 money.

8 Q I thought he stole \$18,000 from
9 you, no?

10 A Well, we weren't sure. I could
11 not prove it.

12 Q But you suspected him of doing
13 that?

14 A Yes.

15 Q So all the other individuals
16 who knew him best when they spoke to him
17 afterwards they all found his emotional
18 response to be appropriate?

19 A I don't think so.

20 MR. DUNNE: I'll object to the
21 form of the question. Go ahead.

22 A I don't know that for a fact.

23 Q Well, sure you do. You spoke
24 to --

25 MR. DUNNE: No, Bruce.

1 K. James McCready 82

2 Q Sorry. You spoke to Ron's
3 family, right?

4 A Yes.

5 Q I think you described as having
6 a meeting in the kitchen at 33 Seaside Drive
7 with the family members just a few days
8 after the crime happened, right?

9 A Yes.

10 Q And you note that the family
11 followed this case all the way through the
12 trial, right?

13 A Uh-huh. Yes.

14 Q And all of them, Ron Falbee
15 took him into his house, had him live with
16 him?

17 A Right after --

18 Q After Shari and him had a
19 split, right?

20 A Yes.

21 Q And, in fact, Shari right after
22 the crime for several months took him into
23 her house, right?

24 A Yes.

25 Q And he went to the funeral of

1 K. James McCready 83

2 his father?

3 A What's that --

4 Q He went to his father's
5 funeral?

6 A Yes, I believe he did.

7 Q And did it ever raise any
8 questions in your mind why it was that the
9 individuals who knew him best thought that
10 his emotional response was appropriate and
11 was consistent and that it was you who
12 thought somehow it was flat?

13 A Right.

14 MR. DUNNE: I'll object to the
15 form. Go ahead.

16 A No, especially after I got a
17 phone call from Shari Rother and Ronnie
18 Rother with regard to him no longer living
19 in the house, and Detective Rein and I went
20 over there and spoke to her and I told her,
21 as I've told everybody, I said, don't
22 necessarily believe me. Do yourself a
23 favor, you ask him the questions, you ask
24 him this, you ask him that, and see what you
25 think. And Ronnie Rother chirped up, we

1 K. James McCready 84

2 already did and we didn't like his answers.

3 And that's why again, remember,
4 he confessed to her that he did this, that
5 he killed his mother and father. He told
6 Shari Rother that.

7 Q When was that? Just at the
8 police station?

9 A On that telephone call that he
10 made from our office.

11 Q We'll talk about that in a bit.

12 After the telephone call he
13 made from your office, after he supposedly
14 confessed to you, Shari took him into her
15 home, yes?

16 A Yes.

17 Q At some point after that, Shari
18 became aware of the fact that she was
19 essentially left out of the Will entirely;
20 is that true?

21 A I don't know.

22 Q Well, at some point after she
23 had found out she was left out of the Will
24 and she learned that if Marty was convicted
25 of the murder he couldn't collect his

1 K. James McCready 85
2 portion and should we get his portion of the
3 Will?

4 A That's not what she told me
5 when we were at the house.

6 Q I'm not asking what she told
7 you at the house. I'm asking if you knew
8 that after Shari learned that she was cut
9 out of the Will and that if Marty was
10 convicted of the crime is that -- excuse me,
11 withdrawn -- that after Shari learned that
12 she was out of the Will and that if Marty
13 was convicted of a crime he couldn't collect
14 his portion it would go to her, was it after
15 that that Shari kicked him out of the house,
16 if you know?

17 A No. I don't think one thing
18 had anything to do with the other.

19 Q Sequence-wise, whether what was
20 in her mind maybe no one will ever know but
21 sequence-wise I'm correct, right? Shari
22 took him into the house after he supposedly
23 confessed to her, after he supposedly
24 confessed to you, then she found out that
25 she was cut out of the Will, then she found

K. James McCready

86

1 out that if Marty was convicted he couldn't
2 collect his part, she would get it, then she
3 kicked him out of the house. So the
4 chronology that I just gave you is accurate;
5 is it not?
6

7 A I don't know that for a fact.

8 Q Let me leave Shari aside and
9 whatever problem she had with the Will and
10 let's talk about the entire rest of the
11 family.

12 Every brother, every cousin,
13 every niece, every nephew to a person
14 supported Martin Tankleff from the moment he
15 was arrested until as we sit here today; is
16 that true?

17 A I guess so.

18 Q Is it possible that your view
19 of his emotional response that day while
20 understandable maybe was born of a lack of
21 understanding or lack of knowledge of how
22 Marty interacts, how his demeanor is.

23 MR. DUNNE: I'm going to object
24 to the form of the question. Go
25 ahead and answer that as best you

K. James McCready

87

can.

A Wait, wait. Repeat the question.

Q Sure. Did you ever consider the possibility that you and, I guess, Detective Rein's view that his emotional response was inappropriate was just a mistake; that you just didn't know this kid well enough to understand how he'd react to the situation?

MR. DUNNE: Same objection. Go ahead.

A No, because it wasn't just me. It wasn't just Detective Rein. I mean even Don Hines knew there was something wrong. And then when -- especially when Hines told him that his father wasn't dead, he gave Hines a look of like shock that he wasn't dead and then he exits out of Hines's car.

Q I guess as we all sit around and there's verbal communication and there's nonverbal communication, right?

A Yes.

Q You understand people can say

K. James McCready

88

one thing and they also have nonverbal cues, they look away, they react in a certain way, somebody has a look of quote/unquote shock, right?

A Yes.

Q Is it fair to say that those nonverbal cues, the interpretations of them, are somewhat subjective?

A I guess, yeah.

Q Right. So that when you're looking at somebody and you see a person like Marty and you think his response is flat, it's inappropriate in some ways, is it possible that you just don't understand him and you don't see what's going on inside of him?

MS. DUNNE: I'll object to the form of the question. Go ahead.

Q Did you ever consider that possibility at least?

A Well, as we say anything is possible but all I know is that kid right there (pointing) killed his mother and father.

1 K. James McCready 89

2 Q Well, with all due respect, I
3 understand what you believe. I'm assuming
4 I'm taking you at your word here, but you
5 don't know it; do you?

6 A I don't know it?

7 Q You don't know it. You can't
8 know it. You weren't there.

9 A I wasn't there.

10 Q You believe it based upon your
11 investigation, based upon your interview or
12 interrogation of him, based upon your
13 experience and so forth, you think he killed
14 his parents?

15 A Yes. And believe me, if he
16 didn't -- if he was innocent, we wouldn't be
17 here today. He would never have gone to
18 jail. You don't lock up innocent people.

19 Q Didn't you get locked up?

20 A What's that? Yes.

21 Q Weren't you innocent?

22 A Yes.

23 Q Just as a conceptual matter,
24 innocent people do get arrested and charged
25 for crime they didn't commit, yes?

1 K. James McCready 90

2 MR. BARKET: I would object to
3 the line of questioning. Go ahead.

4 A You're absolutely correct.

5 However --

6 Q People actually --

7 A Let me tell you this. First of
8 all, no police officer came and arrested me,
9 all right. They presented whatever evidence
10 they supposedly had to a grand jury and
11 whatever and they indicted me, okay. So I
12 went to them and I surrendered myself to
13 them, all right. I had nothing to hide at
14 all.

15 Q I'm not saying you did, Mr.
16 McCready, what I'm saying to you, as a
17 conceptual matter, you and I can agree that
18 our system, while good, is not perfect,
19 right?

20 A Yes.

21 Q The police officers while well
22 meaning sometimes maker errors?

23 A Yes.

24 Q That not every person who's
25 ever been arrested is guilty, you're not

K. James McCready

91

1
2 saying that, right?

3 A No.

4 Q You know that individuals are
5 indicted when they're innocent, right?

6 A Yes.

7 Q Or that police officers arrest
8 individuals when they're innocent, right?

9 A Right.

10 Q Maybe for good reasons, maybe
11 not for such good reasons --

12 A You're quite correct there and
13 everybody is innocent until proven guilty
14 and 12 people convicted him. I didn't
15 convict him, 12 people convicted him.

16 Q And you're not saying that only
17 guilty people get convicted, are you?

18 A What is that?

19 Q You're not suggesting that only
20 guilty people get convicted, right? You
21 understand that the system is good but not
22 perfect.

23 A I know.

24 Q We can just agree that we can
25 go through the history that innocent people

1 K. James McCready 92

2 are wrongly arrested, are wrongly indicted
3 and at times wrongly convicted?

4 A I guess it's happened, yes,
5 it's happened but it didn't in this case.

6 Q Again, that's your view.
7 You're entitled to it and we're going to
8 explore the reasons why you think it but
9 it's your view, correct?

10 A Yes.

11 Q And we can agree that Marty was
12 a suspect in your mind, really, right away.
13 As soon as you began to talk to him you
14 thought there was something wrong here?

15 A I don't know what to say here.
16 I mean everybody is --

17 Q Well, you told the probation
18 officer --

19 A I wasn't thinking like that
20 back then. He put himself into a position
21 of making me suspicious of him, all right,
22 by his words and deeds and actions, all
23 right, and that's when I became suspicious
24 of him. That doesn't mean that, you know --
25 just because I'm suspicious of him, I'm not

1 K. James McCready 93
2 going to throw a set of handcuffs on him and
3 lock him up right away. You still gotta
4 investigate him.

5 And that was the whole thing
6 here. I wanted to talk to him. I wanted to
7 glean as much information as I could from
8 him and then our investigation was ongoing
9 at the scene and everything, at that point
10 in time, and then we -- Well, we discovered
11 other aspects of stuff later on in this
12 case.

13 Anyway, yeah, I guess, I'm
14 suspicious of him. I was suspicious of him.

15 Q Right away?

16 A Pretty close. Alright, I'll
17 give you that, what the hell.

18 Q Well, you gave it to a
19 probation officer, you gave it to Erin
20 Moriarty?

21 A You're making it sound like I
22 walked up to the scene and said he's guilty.
23 That's not what I did.

24 Q No, you walked up to the scene
25 and you spoke to him and you thought his

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K. James McCready 94

emotional response was inappropriate and
that made you suspicious right away?

A Pretty much so.

Q Okay. Then you did a
walk-thru; is that right?

A Yes.

Q And this isn't just kind of a
stroll through the house. You're a trained
investigator, you're an experienced homicide
detective. You're walking through the house
with a purpose, yes?

A Yes.

Q And you're trying to figure out
what took place, observe what you can
factually and so forth, right?

A Yes.

Q And so you took one walk-thru
initially, correct?

A Yes.

Q And then you had a conversation
with Marty, right --

A Yes.

Q -- according to you. And then
you went back in and took another walk-thru;

K. James McCready

95

1
2 is that right?

3 A Yes.

4 Q By the way, the notes that we
5 have that we marked before, I think there
6 were 79 as I recall, these are the notes
7 that you said that you took at the time.
8 There is times here 7:39 to 7:45 and that
9 goes all the way through, right?

10 A Yes.

11 Q Is there some process --

12 A Wait.

13 Q -- is there some process in
14 your squad at that time where you had to
15 hand in your notes on the day every day?
16 Were they time stamped at all?

17 A No.

18 Q So the copies of the notes that
19 we have here to know for sure when they were
20 actually created is dependant upon you
21 telling us, I took these notes
22 contemporaneous with the events, right?

23 A Yes.

24 Q There's not a requirement for
25 you to turn your notes in to your supervisor

1 K. James McCready 96

2 at the end of the day who then logs them in
3 so he can maintain them?

4 A No.

5 Q No process like that. You kept
6 your own notebook; is that true?

7 A Yes. This is not my
8 handwriting on here, these numbers.

9 Q It's not your handwriting?

10 A No.

11 Q Were they your notes?

12 A They're my notes. That's not
13 my handwriting here.

14 Q Let's just back up again
15 because I -- The 79 consists of a -- it
16 looks like a steno pad; is that right?

17 A Yeah. It was a -- Yeah.

18 Q And then, it has --

19 A No, not steno pad. It's a
20 notebook about that wide.

21 Q Like a reporter's notebook?

22 A Yes.

23 Q Then at the bottom it has on
24 the first page A1 and then at 7:39 to 7:45
25 and then 7:45 to 7:55. Those time sequences

1 K. James McCready 97

2 those are not yours?

3 A No.

4 Q Okay. That's good to know.

5 Thank you.

6 As you walk through the house,
7 is it correct that you try to make a picture
8 of what took place in the rooms and
9 reconstruct what happened?

10 A What do you mean make a
11 picture?

12 Q A mental picture?

13 A Well, I couldn't possibly --
14 All I could do was see what I could see. I
15 couldn't make any assumptions as to what
16 happened.

17 Q Well, is it true that as you
18 entered the office you stood there for
19 15-30 seconds and you made certain
20 observations about the room --

21 A Yeah.

22 Q -- and tried to mentally get a
23 picture of what this room looked like and
24 tried to basically reconstruct what I might
25 hypothesize as to what might have happened

K. James McCready

98

1
2 in the room; is that true?

3 A Yes.

4 Q So that when you first walked
5 into the room in the office you looked at
6 it. You weren't just there to kind of see
7 what the decorating was. You were trying to
8 reconstruct in your mind what could have
9 taken place in terms of the attack on
10 Marty's father; is that true?

11 A Yes.

12 Q And you also did the same thing
13 when you walked into the master bedroom
14 where his mother was still there, right?

15 A Yes.

16 Q And you also did the same thing
17 when you walked into his room?

18 A Yes.

19 Q In fact, you stood in his room
20 for about a minute and looked around; is
21 that right?

22 A Yes.

23 Q And you walked into the house
24 and went into the kitchen as well; is that
25 correct?

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K. James McCready 99

A Yes.

Q And you made certain mental observations, right?

A Yes.

Q For example, in Marty's room you noticed there was blood on the light switch?

A Yes.

Q So you figured that somebody who had either turned on or turned off the light switch had blood on their hands, correct?

A Yes.

Q You saw the blood on the telephone in Marty's father's office, correct?

A Yes.

Q You saw that there was no blood on the phones in the kitchen and in the master bedroom, right?

A I don't recall the master bedroom.

Q You don't recall a phone in the master bedroom?

1 K. James McCready 100

2 A There was a phone but I'm
3 trying to remember whether there was blood
4 on that or not. I don't think there was.
5 I'm not sure.

6 Q You went in the kitchen, you
7 observed the kitchen, correct?

8 A Yeah.

9 Q And there was a knife next to
10 the watermelon in the kitchen?

11 A Yes.

12 Q And you observed that?

13 A You have that picture?

14 Q I do.

15 A Can I see it?

16 Q Sure, but let me finish my line
17 of questions if I can.

18 A Okay.

19 Q There is a knife next to the
20 watermelon, right?

21 A Yes.

22 Q And you observed that?

23 A Yes.

24 Q And then you went back out and
25 you spoke to Marty?

K. James McCready

101

1
2 A Yes.

3 Q And he gave you some
4 information, correct?

5 A Yes.

6 Q By the way, at that point in
7 time, did he tell you how he held his
8 father? Did you ask him what took place,
9 what went on?

10 A I don't recall.

11 Q Take a look at your notes and
12 see if -- Take a look at 79 and see if that
13 helps you.

14 A Yes, here (indicating).

15 Q I can finish up this area if I
16 can.

17 Marty told you --

18 A Yeah, that's right, he did. He
19 told me he moved him to the floor.

20 Q At this point in time, you had
21 observed the father's office, correct?

22 A Yes.

23 Q And you could see the chair,
24 correct?

25 A Yes.

1 K. James McCready 102

2 Q And you could see on the chair
3 there was blood on the chair, correct?

4 A I believe so.

5 Q There's actually pooling of
6 blood at the base of the chair; wasn't
7 there?

8 A I don't recall. I have to see
9 the pictures.

10 MR. BARKET: Let's come back
11 after lunch and we'll do the
12 photographs after lunch.

13 THE VIDEOGRAPHER: Going off
14 the record at 1:15 p.m.

15 (At this time, a recess was
16 taken in order to accommodate a
17 lunch.)

18 THE VIDEOGRAPHER: We're back
19 on the record at 2:08 p.m. Tape 3.
20 You may proceed.

21 CONTINUED EXAMINATION BY

22 MR. BARKET:

23 Q Before we broke you asked to
24 see a picture of the -- I guess you all at
25 the trial described it as the watermelon

1 K. James McCready 103

2 knife; you remember that?

3 A Yes.

4 MR. BARKET: Can we just have
5 this marked as number 80, please.

6 (Whereupon, Plaintiff's Exhibit
7 80 was marked for identification.)

8 Q You just wanted to see the
9 knife that was next to the watermelon?

10 A Yes. I wanted to satisfy my
11 own curiosity about something that's all.

12 Q What was that?

13 A I remember Bovet (phonetic), I
14 think he testified that it was in a
15 different position than it was, than where
16 he left it. It's all right. Thanks.

17 Q While we're doing that, I just
18 kind of want to show you -- get some general
19 sense of the house.

20 MR. BARKET: Can we have this
21 marked as 81.

22 (Whereupon, Plaintiff's Exhibit
23 81 was marked for identification.)

24 Q Mr. McCready, I'm going to show
25 you what's been marked as Plaintiff's

1 K. James McCready 104

2 Exhibit 81 which is a photograph of a model.

3 Do you recognize that?

4 A Yes. I forget where I saw it.

5 Q Am I correct to say it's a
6 photograph of a model that was made up for
7 the criminal trial that lays out the
8 Tankleff residence to scale?

9 You recognize it? Can I -- Let
10 me help orient you, if I can. Here is the
11 front entrance right here (indicating).

12 A Okay.

13 Q Okay. And then the master
14 bedroom is here (indicating)?

15 A Right.

16 Q The office and gymnasium are
17 over here (indicating)?

18 A Right.

19 Q Marty's bedroom is there
20 (indicating). The bathroom is there
21 (indicating). The linen closet and so
22 forth. Does that help?

23 A Yeah.

24 Q Okay. Great. One of the
25 things, I think, that you -- Let me do it

K. James McCready

105

1
2 this way if I can.

3 Marty told you on a number of
4 different occasions prior to him making any
5 kind of supposed admission that he held his
6 father and provided first aid to his father;
7 is that right?

8 A Yes.

9 Q That he had called 911 and that
10 he, pursuant to the instructions they gave
11 him, took him out the chair, lied him down
12 on the floor, elevated his feet and put a
13 towel around the wound on his neck; is that
14 right.

15 A Yes.

16 Q And, in fact, there's not any
17 dispute that that took place; is that right?

18 A What?

19 Q There's not any dispute that
20 took place? His father was actually found
21 in that position, correct?

22 A That's right.

23 Q And you know that his father
24 was about 250 pounds, correct?

25 A Yes.

K. James McCready 106

Q And he was in the office chair and I said to you the office chair had blood pooled in it; do you remember that?

A Yes.

Q You had some time to think about it over lunch. Do you remember that that's actually the case that the office chair actually had blood pooled in it indicating that Mr. Tankleff had been bleeding in the chair for a while?

A Had been what?

Q Bleeding.

A I guess so.

Q You made -- Those were part of the observations that you made; wasn't it, when you were there?

A Yes.

Q So you actually could see the office chair that Marty's father -- that Marty found his father in, right?

A Right.

Q And in either scenario, whether we accept Marty's version that he helped his father and didn't have anything to do with

1 K. James McCready 107

2 the attacks on his parents or what you all
3 seem to believe is that he actually did have
4 something to do with the attacking of his
5 parents, we can agree that his father was
6 found not in the chair but on the floor,
7 pillow underneath his feet, towel under his
8 neck, true?

9 A I have to accept that because
10 obviously he was gone by the time I got
11 there.

12 Q Right, but you don't have any
13 reason to doubt the emergency medical
14 technicians who were at the scene who
15 described that as being true, right?

16 A Right.

17 Q And we also can agree, I think,
18 that that act of talking his father from the
19 chair and putting him on the floor took
20 place after the 911 call?

21 A Yes.

22 Q Right. Whether you think that
23 Marty was involved with the attack or not
24 there is no indication that he somehow
25 rendered the first aid --

K. James McCready

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A Well --

Q That the 911 operator gave
him --

A Let me say this.

Q Let me finish my question.

A Okay.

Q There's no indication that he
rendered the first aid that the 911 operator
instructed him to render prior to speaking
to the 911 operator, right?

A No. Right.

Q Okay. So that what we know
happened is that Marty moved his father from
the chair to the floor and rendered the
first aid. We agree on that, yes?

A Yeah.

Q Okay. Now, you indicated that
somehow he should have had blood on his
clothing if he had rendered the first aid
the way he described?

A Yes.

Q Well, wouldn't it be true that
he should have blood on his clothing if he
rendered the first aid under your scenario?

1 K. James McCready 109

2 MR. DUNNE: I'm sorry, what
3 scenario?

4 Q If Marty had --

5 A Not necessarily. Let me see
6 something. Is that the chair?

7 Q We'll get to the chair. Just
8 finish this line of questioning.

9 We know that Marty called 911
10 and that about five minutes later the police
11 officers arrived, right?

12 A Yeah.

13 Q So he had very limited time to
14 do whatever it is that he was going to do
15 between the 911 call and the arrival of the
16 police officers, correct?

17 A Right.

18 Q He did not have time to take a
19 shower, did he, between those two times; did
20 he?

21 A No.

22 Q And there is no indication that
23 he did, right?

24 A Well, I don't know.

25 Q There is no indication he took

1 K. James McCready 110

2 a shower between 6:11 when the 911 call was
3 made and 6:17 when the police arrived,
4 right?

5 A That's right.

6 Q His hair wasn't wet, there was
7 no indication at all, correct?

8 A Right.

9 Q So whenever Marty showered it
10 was sometime before 6:11 when he called 911,
11 true?

12 A Right.

13 Q And according to your version
14 of this, if you will, that Marty called 911
15 and that they told him to go ahead and
16 render some kind of first aid and that under
17 your version as a quote/unquote "cover-up,"
18 he pretended to render that first aid,
19 right?

20 A Yes.

21 Q And so that he took his father
22 out of the chair, put him on the floor,
23 raised his feet, put the towel around his
24 neck?

25 A Yes.

1 K. James McCready 111

2 Q Then after that he called his
3 sister, right?

4 A Yes.

5 Q And after that he left the
6 house?

7 A Yes.

8 Q Okay. And one of the things
9 that you've pointed to as kind of
10 repeatedly, I think, as evidence or
11 suspicious is that Marty didn't have any
12 blood on the sweatshirt that he had on?

13 A Yes.

14 Q Well, is it fair to say that
15 whether he rendered the first aid as part of
16 trying to help his father and he was
17 innocent or if he rendered the first aid as
18 part of the coverup he didn't have that
19 sweatshirt on when he rendered the first
20 aid?

21 A I don't know that. I don't
22 know that he rendered first aid. I wanted
23 to look at that picture for a reason.

24 Q Sure, sure. And I'll give it
25 to you. I just want to finish this kind of

1 K. James McCready 112
2 thought that we have.

3 Whether we call it first aid or
4 moving his father from the chair to the
5 floor, elevating his feet, and putting the
6 towel around his neck, that physical
7 activity, whatever way you characterize it,
8 coverup, first aid, that took place, right?

9 A Yes.

10 Q That when that took place,
11 whether it was a coverup or first aid, we
12 can agree that Marty did not have that
13 sweatshirt on at that time; is that true?

14 A Wait a minute. Run that by me
15 again.

16 Q Sure. The sweatshirt had
17 absolutely no blood on it; did it?

18 A No, no.

19 Q So that we know that when Marty
20 moved his father from the chair to the
21 floor, elevated his feet, put the towel on,
22 he didn't have the sweatshirt on because if
23 he had the sweatshirt on you would have
24 expected to see blood on it, correct?

25 A I don't know that that's

1 K. James McCready 113

2 actually the scenario. I don't know for a
3 fact that he lifted his father out of the
4 chair.

5 Q How did his father get out of
6 the chair?

7 A I think he grabbed him by his
8 feet and pulled him out. That's what I
9 think.

10 Q Oh, he grabbed him by his feet,
11 pulled him out of the chair?

12 A Yeah, onto the floor.

13 Q And he had is sweatshirt on?

14 A Yeah.

15 Q Oh, I see. So he didn't have
16 any blood on him at all according to your
17 theory?

18 A Well, I don't know that he got
19 any blood on him. I know there was blood
20 spots on him. As a matter of fact, he wiped
21 two of them off when I had noticed on his
22 leg when he was sitting in the police car.

23 MS. BARKET: As long as we're
24 looking at it, can we have this
25 marked as Plaintiff's Exhibit 82,

K. James McCready

114

1
2 please.

3 (Whereupon, Plaintiff's Exhibit
4 82 was marked for identification.)

5 Q So you're saying that what
6 could have happened -- this is not in the
7 confession, of course, right?

8 A No.

9 Q What's in the confession is
10 that he moved him from the chair and did
11 what he did, right?

12 A Right.

13 Q There's nothing about pulling
14 him from the feet or any such thing, right?

15 A That's right.

16 Q So we don't really know if that
17 happened or not but we're asking you to
18 theorize so you're theorizing.

19 A Right.

20 Q So your theory is that Marty
21 somehow got him out of the chair by pulling
22 him by his feet and not getting any blood on
23 the sweatshirt he was wearing and then
24 propped up his feet and put the towel around
25 his neck; is that what you're saying?

K. James McCready

115

A Yes.

Q Let's just go with the theory that Marty helped him out of the chair the way Marty described it for a moment, okay.

A Uh-hum.

Q So the father was facing forward in the chair and the chair was swung around to the left; is that true?

A I don't remember.

Q You don't remember looking at the office where the --

A Yeah, I know but I can't orientate the chair from this photograph.

MR. BARKET: Let's do it this way. Let's mark this as 83.

(Whereupon, Plaintiff's Exhibit 83 was marked for identification.)

Q You can see here what we're referring to, right?

A Yes.

Q So that the chair was swung to the left and then Marty would have approached his father from the father's left with Marty's right hand going around his

1 K. James McCready 116

2 father's back and his left arm going
3 underneath his legs?

4 A Yeah.

5 Q That's what he did. That's
6 what Marty says he did, right?

7 A Yes.

8 Q So if he had actually done what
9 he said he did, wouldn't you expect to see
10 blood on the right side of Marty and on his
11 left arms?

12 A Yes.

13 Q Okay. Where was the blood on
14 Marty according to the police officers? Is
15 it true that the blood on Marty was on the
16 right side of his face -- officer noticed
17 that -- the blood was on his right shoulder,
18 on the palms of his hands, on his left
19 forearm and on his right calf and his right
20 instep? Isn't that where the blood was on
21 Marty when he walked out of the house
22 screaming "murder, somebody's murdered my
23 parents," according to the police officers?

24 A Yes.

25 Q So that's exactly where you

1 K. James McCready 117

2 would expect to see the blood on Marty if he
3 had done precisely what he said he did,
4 right? And that was all his father's blood,
5 it wasn't his mother's blood?

6 A I could swear the blood
7 underneath his shirt was the mother's blood.

8 Q Don't swear to that. It's his
9 father's blood, trust me.

10 A Oh yeah, whatever. I still
11 think it's a possibility --

12 Q Well, it's not just a
13 possibility. Under that scenario that's
14 exactly where -- Marty had blood on him in
15 the exact spots you would expect to see the
16 blood if he removed his father from the
17 chair exactly the way he said he removed it,
18 that's correct; isn't it?

19 A I don't think so.

20 Q You don't think so?

21 A No.

22 Q What's incorrect about it? How
23 did he get blood on the right side of his
24 face if he wasn't helping his father?

25 A I don't know. I wasn't there.

1 K. James McCready 118

2 Q How did he get blood on his
3 left forearm and the palms of his hands if
4 he wasn't helping his dad?

5 A I don't know I wasn't there.

6 Q How did he get blood on his
7 right calf and his right instep?

8 A I don't know.

9 Q You can't think of a scenario
10 where he murdered his father and somehow
11 smeared blood all over his body in just that
12 way; can you?

13 A Well, I'm not saying that that
14 couldn't have been possible, but I don't
15 know. I would have loved to be there when
16 Seymour was there but unfortunately he
17 wasn't. However --

18 Q Well, you have people to talk
19 to about what Seymour looked like; don't
20 you. In fact. You all went out and
21 interviewed the people at the scene. You
22 talked to the officers who arrived there.

23 A Yeah, I know.

24 Q And Marty didn't have blood on
25 his hands. Marty had blood on the palms of

1 K. James McCready 119

2 his hands according to the police officer;
3 isn't that right?

4 A I don't recall.

5 Q You don't recall testimony of
6 what the original officers had to say?

7 A I don't recall right now. I
8 remember I think it was a key, a key that
9 said he washed his hands in the puddle
10 outside.

11 Q I'm not talking about when he
12 cleaned the blood off his hands. I'm
13 talking about what the officer said where
14 the officer said the blood was.

15 MR. BARKET: Can I have this --
16 it's page --

17 A I don't know what they
18 testified to. I wasn't in the courtroom,
19 obviously.

20 Q Obviously, you don't know what
21 they testified to because you weren't there
22 but you spoke to these individuals; didn't
23 you?

24 A Yes.

25 Q These are trained police

1 K. James McCready 120

2 officers, right?

3 A Yes.

4 Q You're a trained detective.

5 It's a homicide scene.

6 MR. BARKET: Can I have this
7 marked, please, as 84.

8 (Whereupon, Plaintiff's Exhibit
9 84 was marked for identification.)

10 Q Could you take a look at Page
11 332. It's Police Officer Crayne, I think is
12 how you say it, and down at line 18 -- well,
13 line 16, do you recall any other
14 conversations about this person at the time?
15 Answer. Yes. I notice in the palm of his
16 hands he had some blood there. I noticed
17 also a little blood on the right side of his
18 face. There was also a bit of bruises
19 underneath his eyes.

20 You don't doubt that's what
21 Officer Crayne testified to and that's what
22 he observed, right? There's no reason to
23 doubt that; is there?

24 A What's that?

25 Q There's no reason to doubt

K. James McCready

121

Officer Crayne's testimony --

A No.

Q -- the credibility of it or the accuracy of it?

A No.

Q And obviously he got that blood on him moving his dad, right?

A I guess so.

Q So he could not have gotten that blood on him on the right side of his face by pulling his father out of the chair by his feet?

A How do you think he got the blood on the right side of his face? Why couldn't he have pulled his father off the chair, gotten him on the floor and when he pretended to do the first aid he got blood on him and mistakenly went like that (indicating).

Q So he got blood on his hands while rendering first aid, mistakenly touched his face, his right shoulder, his right calf, his right instep and his left forearm. That's your testimony? That's

1 K. James McCready 122

2 your theory of what happened here?

3 A I don't know what happened.

4 Q What you do know is what Marty
5 told you, right?

6 A Yes.

7 Q And you took Marty's account of
8 what took place and if we compare it to the
9 physical evidence that we have, the blood
10 that we know was on him from the police
11 officers, those two things are consistent;
12 aren't they?

13 A Yes.

14 Q Now, I want to move to, if I
15 can, the -- Let me just ask a couple of
16 questions if I can about Arlene.

17 When you walked up to her on
18 the second walk-thru, this was after you
19 spoke to Marty, right?

20 A Yes.

21 Q One of the things that you
22 noticed, by the way, was that Arlene's room,
23 the room where Arlene Tankleff was, the
24 master bedroom had three sets of windows in
25 it; is that right?

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K. James McCready

123

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A Yes.

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Q And two of them had curtains

4

drawn, correct?

5

A Yes.

6

Q One had a gap of about

7

three feet where the curtains were open;

8

true?

9

A Yes.

10

Q And at the time that you saw

11

this sometime after 8 o'clock in the

12

morning, light was coming through there,

13

yes?

14

A Yes.

15

Q And I think that we can agree

16

that sunrise on that day was 6:25 in the

17

morning; is that right?

18

A Yes.

19

Q So the 20 or 30 minutes before

20

sunrise it would be somewhat light perhaps

21

but it's not a bright sunny day at that

22

point in time?

23

A Well, I remember that morning

24

specifically it was a bright sunny day.

25

Q Well, it wasn't a bright sunny

K. James McCready

124

day before the bright sun came up, right?

A Well, what I'm saying is when I was in the morning, I got up early, I think it was about 10 after 6:00 that I get up and when I looked out my window it was a nice day.

Q We can argue about many things. You're not asserting that the sun came up for you before it came up for everybody else, obviously?

A No, but I know when just because it says that sunrises officially at 6:25 doesn't mean it's not light at 6 o'clock in the morning.

Q Well, without going through the weather charts that there's actually a sequence that plays out every day.

MR. DUNNE: But he used the term light.

Q There wasn't sunlight there was some light at that point in time at say 6:00 or 6:10 but the sun hadn't risen yet, right?

A Right.

Q We can agree on that. So when

1 K. James McCready 125

2 you went in there looking for Arlene's body
3 because you knew it was there, you found her
4 pretty easily, right?

5 A Yes.

6 Q At that point in time we can
7 agree it was bright sun, correct?

8 A Yeah.

9 Q When Marty first woke up and
10 got up out of his bed and began to walk
11 through his house the sun had not risen yet;
12 had it?

13 A No.

14 Q And at that point in time you
15 weren't in the bedroom; were you?

16 A No.

17 Q That bedroom actually faces
18 Long Island Sound, correct?

19 A Yes.

20 Q Actually faces the north, yes?

21 A Yes.

22 Q And in September the sun rises
23 -- I don't mean to be facetious -- but the
24 sun rises in the east in September as
25 opposed to June where it actually rises in

1 K. James McCready 126

2 the northeast or December arises in the
3 southeast, right?

4 A I guess.

5 Q And so the window that Marty's
6 mother's bedroom faced was not where the sun
7 was rising, it was on the east side of the
8 house, not on the north side where the
9 window was facing; true?

10 A Right.

11 Q So whatever the lighting was at
12 that point in time Marty says to you, I
13 looked in the bedroom for my parents and I
14 didn't see them, correct?

15 A Yes.

16 Q That's what he says. And
17 obviously -- well, not obviously but is it
18 fair to say that Marty, when looking for his
19 parents in the bedroom, would have been
20 looking to the right up at the headboard
21 where the pillows were?

22 A Possibly, yes.

23 Q Sure, because that's where you
24 would expect to find your parents if they
25 hadn't been murdered the night before?

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K. James McCready 127

A Oh, yes.

Q If you woke up and you're an innocent teenager and you wake up and you're looking for your parents and you don't know that your mother's throat's been slit and she's down at the foot of the bed with just her head exposed, you're not looking there, you're looking up to the right to the headboard where the pillows were, right?

A Right.

Q It's still not sunrise, whatever the lighting conditions were they were, he looks there doesn't see them and then he begins to go through the rest of the house?

A There's only one little problem with that. The television was on and that emanates an awful lot of light.

Q How do you know?

A What?

Q What was the show?

A I don't know.

Q What was going on?

A I didn't watch it.

1 K. James McCready 128

2 Q It was 1988. Did they have
3 cable? Was it fuzz? Was it MTV?

4 A I don't know.

5 Q How much light did that
6 emanate?

7 A When I looked in there, I could
8 see the television was on and everything --
9 Granted, I had more light than he did, but
10 the television was on and I leave the
11 television on in my bed every night and
12 there's plenty of light that is emanated
13 from it.

14 Q You're saying it's unreasonable
15 for an individual to walk into the room
16 before sunrise, look over to the head of the
17 bed where he would expect to find his
18 parents, not see them there, turn around and
19 leave and not notice the mother's head at
20 the foot of the bed down behind on the other
21 side of the bed? That's an unreasonable
22 thing in your mind?

23 A I think it is, yes.

24 Q You're entitled to your view.
25 And in your mind if that unreasonable and

1 K. James McCready 129

2 somehow evidence of his guilt of murder,
3 you're entitled to that view.

4 In any event, when you went
5 back into the room and you walked over to
6 her, you actually had a chance to look at
7 her fairly closely; didn't you?

8 A Yes.

9 Q And nobody was rushing you?
10 There wasn't a time limit. You took as much
11 time as you wanted to take to view Arlene,
12 to view the scene; true?

13 A Yes.

14 Q And part of what you were doing
15 is what you described earlier, was just
16 trying to get together a scenario in your
17 mind about what potentially took place,
18 right? And you could see the blood on the
19 sheets? You could see the blood on the
20 wall, right?

21 A Yes.

22 Q And you could see, of course,
23 Arlene who was dead lying face up --

24 A Yes.

25 Q -- with her head slightly

1 K. James McCready 130

2 tilted to the right; you remember that?

3 A Yes.

4 Q Okay. And at that point in
5 time you left and began to have a further
6 conversation with Marty; is that right?

7 A Yes.

8 Q And before you did that you
9 went in and you saw the telephone in the
10 office; is that true?

11 A Yes.

12 Q And you said that the telephone
13 in the office had blood on it and that none
14 of it was smeared in your view?

15 A Yes.

16 Q Is that right?

17 A Yes.

18 Q Did you have any kind of device
19 to help you examine the phone?

20 A No.

21 Q Magnifying glass?

22 A No.

23 Q Anything like that?

24 A No.

25 Q Where was the blood on the

K. James McCready

131

phone?

A I have to look at the picture again but I'm pretty sure it's right across the top of the handle on the phone.

Q Right across the top?

A Well, on the top.

Q Is it fair to say there was specs of blood?

A Yeah.

Q Were the specs of blood wet or dry?

A Were they what?

Q Wet or dry?

A I don't recall at this time.

Q You recall Ethel Kerley testifying that the blood in the father's room was dry; that literally the blood -- dried clumps of bloods in his hair.

Do you remember her testifying to that or telling you that?

A Who?

Q Ethel Kerley, the EMT person who arrived first who saw Marty's mom's throat cut?

1 K. James McCready 132

2 A Uh-hum.

3 Q You're not disputing her
4 testimony in that regard?

5 A No.

6 Q You also observed, I think, the
7 blood spatter around the room; didn't you?

8 A Yes.

9 Q That the blood on the phone
10 didn't come from dripping but looked like it
11 was sprayed there from his father's --

12 A Spattered.

13 Q Spattered. Being struck,
14 right?

15 A Yes.

16 Q And so, just again, I'm sure
17 you know there's some -- you know, that when
18 someone is struck and they bleed and they're
19 struck again and an object is swung back and
20 forth the blood is literally sprayed off the
21 individual and cast off from the weapon and
22 it creates blood spatter around the room and
23 that's what you saw on the phone, some specs
24 of blood splatter; is that right?

25 A Yes.

K. James McCready

133

MR. BARKET: Could we have
these two marked as 85 and 86.

(Whereupon, Plaintiff's
Exhibits 85 and 86 were marked for
identification.)

Q Could you take a look at what's
been marked as Plaintiff's Exhibits 85 and
86 and I'm going to ask you if that's the
telephone that you observed on September 7,
1988 in the office where Martin Tankleff's
father was found?

A Yes.

Q And you see the little specs of
blood on it, right?

A Yes.

Q And by the way, the photographs
that we're going through, these are all
police photographs that were reproduced for
Mr. Gottlieb back in '88-'89 for the trial;
is that right?

A Yes.

Q So all these photographs that
we're going through they were not taken by
defense experts, they were taken by police

1 K. James McCready 134

2 officers in the course of the investigation?

3 A Yes.

4 Q I want to ask you something
5 about what you expected to see and then
6 we'll talk about what's actually there.

7 Are you suggesting that if
8 there is dry blood on the phone and somebody
9 without any moisture or blood on their hands
10 picks it up and uses it for about a minute
11 that the blood spatter, the dried blood
12 spatter, has to have ben smudged?

13 A What I am saying is even from
14 this photograph the blood does not look like
15 it was that dry to me. Usually blood turns
16 into real dark brown when it's dry.

17 Q I don't know what the lighting
18 was for the photograph. I didn't take the
19 picture but I don't want to go backwards in
20 our examination here. We just agreed the
21 blood was dry. Ethel Kerley described the
22 blood being dry, that the spatter on the
23 phone was dry; is that fair? We're not
24 backtracking it; are we?

25 A No, I'm not.

K. James McCready

135

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2 Q So assuming that the blood was
3 dry the way Kerley said it was and the way
4 you said it was, if there is dry blood on
5 the phone, somebody without moisture on
6 their hands, without blood on their hands,
7 picks up the phone and uses it briefly,
8 would you automatically expect that blood to
9 be smeared?

10 A No.

11 Q It may not be smeared, right?

12 A Yeah.

13 Q In point of fact, if you look
14 at the 911, the numbers that Marty would
15 have dialed, they don't have any blood on
16 them at all; do they?

17 A No.

18 Q Now, here is where the
19 magnifying glass comes in. I want you to
20 take a look at these pictures with the
21 magnifying glass and look at the base of the
22 phone, the handset down at the bottom on
23 each side, and tell me if you don't see what
24 appears to be smeared blood there.

25 A I can't tell what that is.

1 K. James McCready 136

2 Q There is something there; isn't
3 there?

4 A I don't know.

5 Q Looks like smeared blood;
6 doesn't it? I'm talking about the base of
7 the handset.

8 A I know. I know. You're
9 talking about the sides of the phone.

10 Q Right.

11 A I don't know.

12 Q That very well could be smeared
13 blood even through that photograph, right?

14 A It could be. I don't know
15 though. I can't tell from this.

16 Q You obviously didn't take a
17 close examination of the phone that day with
18 magnifying glasses or anything of the sort;
19 did you?

20 A No.

21 Q Okay. So is it fair to say
22 that A, there could be smeared blood on that
23 phone, right?

24 A Could be. Yeah.

25 Q And B, that even if there is

1 K. James McCready 137

2 not smeared blood that would not necessarily
3 mean that Marty did not use it because the
4 dried blood wouldn't necessarily have
5 smeared, correct?

6 A Possibly, yes.

7 Q Now, the next thing that I want
8 to talk to you about is the doorknob.

9 A Yes.

10 Q Okay. You know which doorknob
11 we're talking about, right?

12 A Yeah.

13 Q The garage.

14 A The garage.

15 Q Because Marty says that after
16 he found his father, after he called 911 and
17 after he rendered first aid to his father,
18 he went looking for his mother, right?

19 A Yes.

20 Q And that he opened the garage
21 door, right?

22 A Right.

23 Q And then closed it and kept
24 looking for his mother until he found her in
25 the bedroom, correct?

1 K. James McCready 138

2 A Right.

3 Q Now, at that point in time you
4 went looking for blood on that door, right?

5 A Yes.

6 Q Interesting, going back to what
7 Officer Crayne said that Marty had blood not
8 on his fingertips but on the palms of his
9 hands --

10 A Yes.

11 Q -- how do you think that might
12 have happened?

13 A How that might have happened?

14 Q Yeah.

15 A I don't know.

16 Q Well, if Marty had blood on his
17 hands from helping his father off the chair,
18 elevated his feet with the pillow, and then
19 the last thing he did is take a towel with
20 his fingers extended and put it down on his
21 father's neck, could some of the blood that
22 might have been on Marty's fingers come off
23 on the towel?

24 A Yes.

25 Q Could?

K. James McCready

139

1
2 A Yes.

3 Q So that would explain while he
4 helped his father and there's blood on the
5 palms but not on fingers, right?

6 A Yes.

7 Q And the key that you turned, I
8 think, if I recall your testimony, you
9 turned it with a pen or something?

10 A Yeah.

11 Q What if Marty turned it with
12 his fingertips where there wasn't blood,
13 would you expect to see blood there?

14 A No.

15 Q Push the handles down on the
16 door with his fingers, pulled it back,
17 closed it, turned the lock, you wouldn't
18 expect to see any blood at all; would you?

19 A Not necessarily, no.

20 Q And is it true that even if he
21 had blood on his hands it would not
22 necessarily mean that everything he touched
23 thereafter would have blood on it; would it?

24 A Not necessarily, no.

25 Q Of course not. And we know in

K. James McCready

140

1 this case, as a matter of fact, that
2 everything he touched after he rendered aid
3 to his father didn't have blood on it; don't
4 we?
5

6 MR. DUNNE: No, I'm going to
7 object to the conclusionary portion
8 of that.

9 MR. BARKET: Let me ask it in a
10 factual way.

11 Q We know that after he touched
12 his father, whether it was quote/unquote as
13 some kind of coverup or some kind of simply
14 rendering first aid the way he said, that he
15 did other things after that, right?

16 A Yes.

17 Q Called his sister?

18 A Yes.

19 Q Picked up the telephone?

20 A Yes.

21 Q Was there blood on the phone?

22 A No.

23 Q Well, why would you expect to
24 see blood on the doorknob and the key but
25 not on the phone? It's just possible that

1 K. James McCready 141

2 when somebody has blood on them it doesn't
3 mean that their hands are literally covered
4 with blood.

5 A I understand that.

6 Q He didn't stick his hands in
7 paint and covered it completely?

8 A I understand.

9 Q It means that he had some blood
10 on his hands and all that it means when he
11 touches the next thing and he doesn't leave
12 a blood trace is the spot on his hands that
13 had the blood didn't come into contact with
14 whatever it was that he was picking up,
15 right?

16 A Right.

17 Q It's a very simple explanation;
18 isn't it?

19 A It's plausible.

20 Q It's more than plausible. We
21 actually know what happened here because we
22 know that Marty rendered first aid and we
23 know he made the phone call to his sister
24 and there's no blood on the phone, right?

25 A Right.

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K. James McCready

142

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Q And we also know that he went
3 out through a storm door; don't we?

4

A Yes.

5

Q Blood on the storm door?

6

A No.

7

Q He didn't become like some
8 character out of Star Trek and beam himself
9 through the door; did he? He had to open
10 the door with his hands and walk through,
11 correct?

12

A I guess.

13

Q Of course, right, there was no
14 other way to get out of the house.

15

A Okay. I don't know -- Why did
16 he use a tissue to go back into the house
17 when he left the police officer?

18

Q I don't know. Somebody should
19 have asked him.

20

A What?

21

Q Did you ask him? Mr. Dunne
22 could have asked him. Somebody could have
23 asked him. There's a trial, we'll ask him.
24 You can ask your attorney to ask him. Did
25 you ask him that day?

1 K. James McCready 143

2 A I don't remember asking him
3 that.

4 Q I'm sorry?

5 A I don't remember asking him
6 that.

7 Q Did any police officers that
8 you know of ask him that day?

9 A I don't know.

10 Q Marty told you he was sickened
11 by blood; didn't he?

12 A Something like that, I think.

13 Q Well, something like that. He
14 told you that when he went in to see his
15 father who had some type of procedure in the
16 hospital he was actually sickened by the
17 site of blood.

18 A I'll take your word for it.

19 Q Well, I mean you were there.
20 Do you remember that? We have notes on it
21 and so forth?

22 A I know but I'll give you that.
23 Yeah.

24 Q He actually said it. It's in
25 your report, right?

K. James McCready

144

1
2 A Yeah.

3 Q So that a young teenager who
4 finds his parents that way, who has to
5 render first aid to his father, who is
6 revolted by the site of blood is going to do
7 some things to get the blood off of him;
8 isn't he?

9 A Yes.

10 Q He asked the police officer
11 could he go back in the house and wash his
12 hands. He was told no. And he asked to
13 wash them in a puddle and he was told yes,
14 right?

15 A I guess.

16 Q So he cleaned the blood on his
17 hands off, right?

18 A Yes.

19 Q And then as he's going back and
20 forth through the house, I guess before that
21 or after that, it's not clear, he used a
22 tissue, right?

23 A Yeah.

24 Q Does that tell you anything
25 other than he used a tissue?

K. James McCready

145

A No.

Q There's actually three tissues found in his pocket, right?

A Yes.

Q One of them had his blood on it, right?

A Had what?

Q Had his blood on it.

A I don't recall.

Q One of them had his blood on it, one of them had nothing and one of them had a small amount of his mother's blood, right?

A Yes.

Q So he has his mother's blood on a tissue inside of his pocket. How did that happen if he murdered his mom?

A If he what?

Q If he murdered his mom. According to your theory, how did he end up with blood on the tissue?

MR. DUNNE: I object to the form of the question. Go ahead and answer.

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K. James McCready 146

A I don't know.

Q Well, we know that he took a shower according to your account, right?

A Right.

Q After the murders, right?

A Yes.

Q And that the shower was thorough enough, at least as to the weapons, according to your account, as to completely clean off any forensic trace of anything, right?

A Yes.

Q And that he has a tissue in his pocket with his mother's blood on it. That had to get there after the murders, right? He did not kill his mother with the sweatshirt on; did he?

A With a what?

Q He didn't kill the mother while wearing that sweatshirt; did he?

A Not that I'm aware of.

Q There was blood on the doorknob of Marty's room; wasn't there?

A I think there was. I'm not

K. James McCready

147

1
2 sure.

3 Q His mother's blood on the
4 doorknob, right?

5 A I don't know. I don't
6 remember.

7 Q Mother's blood on the light
8 switch in Marty's room, correct?

9 A I think so, yes.

10 Q And there's actually blood
11 there that was actually smeared up the wall
12 by the light switch, correct?

13 A Yes.

14 Q You ever walk into a room where
15 you don't know where the light switch is and
16 you grope on the wall looking for it?

17 A Sure.

18 Q You ever walk in a room where
19 you know where the light switch is and you
20 turn it on?

21 A Yes.

22 Q So Marty who lived there is not
23 likely to be groping for a light switch in
24 his own room; is he?

25 A No.

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K. James McCready 148

Q So when Marty woke up that morning and flicked on his light, could he have gotten some of the blood that was on the slight switch on his hand?

MR. DUNNE: I object to the form but go ahead.

A Could he have gotten what?

Q Some of the blood that was on the light switch on his hand when he turned on the light?

A Is that scenario possible, yes, of course.

Q There's a few things that Mr. Pollack asked Mr. Rein about and I want to give you the same opportunity, that according to your account of this, Marty called 911 after having woken up at 5:35 in the morning, attacked his mother, attacked his father, noticed that his father was still alive and called 911 anyway, right?

A Yes.

Q Okay. And according to you he had to have done this from the bed. He couldn't have done it from the phone in the

K. James McCready

149

office, right?

A Called 911?

Q Right.

A Right.

Q Because you had that scenario where that phone in that office was not touched so Marty's call had to have taken place someplace else, right? Guilty or innocent, according to you, he couldn't have called from the office, right?

A I don't believe he did.

Q No. So according to your account he called from his mother's room; is that right?

A Yes.

Q Okay. So he's making a 911 call seven feet from his butchered mother, fainting excitement and stress the way you hear him on the 911 call, begging, please, please, I need an ambulance, and he doesn't mention his mother. That's your account, right?

A Right.

Q How do you explain that?

1 K. James McCready 150

2 A How did I explain it?

3 Q Yeah. What would possess
4 Marty, assuming he did the things that you
5 think he did, make the 911 call from one
6 room next to the parent that's right across
7 the hall from him where you would expect --
8 everybody would expect he would have walked
9 across the hall, seen his mother laying on
10 the floor in the bright light, whatever it
11 was, TV set in that room, picked up the
12 phone and said, oh, my God, my mother has
13 been attacked. That would be a fairly
14 logical simple thing for the guilty person
15 to do; yes?

16 MR. DUNNE: I'm going to object
17 to I think there was a question but
18 the form of it. Go ahead.

19 Q How do you explain the fact
20 that he's calling from one room -- he's
21 calling from one room and right near the
22 injury of his parent who is across the house
23 120 feet away?

24 A I don't understand what you're
25 trying to say here.

1 K. James McCready 151

2 Q I'm asking you what possible --
3 Did you ask Marty, why did you call from
4 that room?

5 A I don't remember. Whatever I
6 did.

7 Q But we know that you thought
8 that he couldn't have called from the
9 office, right, that was your view of things?

10 A Right.

11 Q So the 911 call had to have
12 come from someplace else. It couldn't have
13 come from the office, right?

14 A Right.

15 Q By the way, at the time that
16 you all are speaking with Marty, you have
17 not heard the 911 call; have you?

18 A No.

19 Q You don't know what was said.
20 You don't know what took place?

21 A No.

22 Q It's later on that we find out
23 that this 911 call is a panicked teenager
24 talking only about his father, right?

25 A Right.

K. James McCready

152

1
2 Q But in the confession that you
3 say he gave you in his own words he doesn't
4 say he used the phone that he says he used,
5 he says he uses a phone that you say he used
6 in the bedroom and talks about the body in
7 the office?

8 A Yes.

9 Q Did that raise any concerns
10 with you that maybe this account that you
11 were acquiring from this teenager who just
12 found his parents maybe wasn't true?

13 A No.

14 Q It did not raise any concerns
15 for you?

16 A No.

17 Q After the fact? After you hear
18 the 911 call, after you know that it's the
19 father he's describing, didn't you go back
20 and say, geez, that doesn't make a lot of
21 sense that he would have been calling from
22 the mother's room describing the father's
23 injury and not describing the mother. Never
24 raised any concern with you?

25 A No.

1 K. James McCready 153

2 Q Did it ever raise a concern to
3 you that that account of which phone was
4 used was something that was in your mind and
5 then somehow came out of Marty's mouth?

6 MR. DUNNE: Objection to the
7 form but go ahead.

8 A No.

9 Q But in your head he couldn't
10 have used the office phone, right?

11 A I didn't think he did, no.

12 Q Right. And so the account that
13 Marty gives reflects your account or your
14 thinking at the time?

15 A No, the account he gives me
16 reflects what he told us at the time.

17 Q And look, it's a conversation
18 that took place 20-somewhat years ago. I
19 know you took some notes about it, but we
20 have a court reporter here who writes
21 everything down because we can't remember
22 what was said exactly, right? You guys
23 didn't have a court reporter there; did you?

24 A No.

25 Q So what was said, you have your

1 K. James McCready 154

2 view of it; Marty has his view of it, right?

3 A Yes.

4 Q I'm not going to comment one
5 way or the other on whose is accurate?

6 A Yes.

7 Q But it is true that at the time
8 that you're saying that Marty tells you he
9 used the phone other than the office phone
10 that reflects your thinking at the time that
11 he did not use the office phone; true?

12 A Yeah.

13 Q And that's kind of what I meant
14 by from your head out of his mouth.

15 A No, it's not true.

16 Q Well, you're saying you didn't
17 suggest to him that he used another phone,
18 you just let him tell you which phone he
19 used.

20 A Yes.

21 Q And then it was coincidence
22 because he said that he was using a phone --
23 that he wasn't using the phone that you
24 didn't think he used, right?

25 A Well, if want to call it a

1 K. James McCready 155
2 coincidence or not but that's what happened.

3 Q Well, again, according to you.
4 Because Marty's account of this has always
5 been different than that, right? Marty said
6 you suggested to him that he used the other
7 phone; did that happen?

8 A No.

9 Q It was not that you said to
10 him, Hey, Marty, you couldn't have used the
11 phone in the office because I looked at it
12 for a few seconds and I didn't see smears.
13 You had to use a different phone. Which
14 phone did you use, and how about your
15 mother's phone? That didn't happen?

16 A No.

17 Q The 911 call, one of the things
18 that you do when you're confronting Marty --
19 and there's this period of time where you do
20 some small talk with him, as you all
21 described it, and then you get to a part
22 where you're confronting him and one of the
23 things you confront him with is that he
24 didn't compress the wounds; is that right?

25 A Yeah.

1 K. James McCready 156

2 Q And you actually write in your
3 supplemental report that he did not compress
4 the wound the way the 911 operator told you
5 to.

6 A Yes.

7 Q Now, September 14th, a week
8 later, by that point in time you had heard
9 the 911 call; hadn't you?

10 A Yes.

11 Q So did Marty use the words
12 according to you that the 911 operator told
13 me to compress the wound?

14 A Yes.

15 Q He did?

16 A Yeah.

17 Q Well, take a look at your notes
18 from your original interview of him and --
19 What number is that?

20 A Seventy-nine.

21 Q And show me where it says that
22 the 911 operator -- Those are the notes you
23 say you took that morning, right?

24 A Yes.

25 Q The notes reflect the fact

K. James McCready

157

1 that he --

2 A What page is that?

3 Q I don't know if we have page
4 numbers but I put an asterisk next to it
5 where it says, 911 call, phone office, linen
6 closet, towel, his room and pillow. Those
7 are the notes that you supposedly took while
8 Marty was telling you what happened at 33
9 Seaside Drive; is that right?

10 A What's that?

11 Q Those are the notes that you
12 supposedly took at 33 Seaside Drive; is that
13 correct?

14 A Yes. Yeah.

15 Q Okay. It doesn't say that he
16 told you to compress the wound; does it?

17 A I didn't write it in here but
18 he told me that.

19 Q Well, compress the wound, that
20 sounds like a word that a 17-year-old would
21 use?

22 A Actually, I think the word was
23 apply pressure.

24 Q That's the word that the
25

K. James McCready

158

operator used?

A Yes.

Q On the 911 call?

A Right.

Q What I'm asking you is, you described an account in your supplemental report that you challenged Marty by saying, ah-ha, that's very good, Marty, but you didn't do what the 911 operator told you to do which was put pressure or compress the wound, and I'm asking you how did you know what the 911 operator said to him if you hadn't listened to the call before you wrote up the report, and you're saying that Marty told it to you.

MR. DUNNE: The notes or the report?

MR. BARKET: The notes.

MR. DUNNE: Right, not the report, the notes.

Q The report that was a week later says Marty told us about it.

A I don't know why I didn't write it in here, but I didn't write it down.

1 K. James McCready 159

2 Q Okay. But you're saying Marty
3 told it to you?

4 A Yeah.

5 Q It wasn't something where you
6 wrote up the report a week later, it wasn't
7 something you put it in that you learned
8 from listening to the 911 tape, right?

9 A No.

10 Q That was something you learned
11 from Marty according to you?

12 A Yes.

13 Q Now, you had a number of people
14 tell you or police officers that they
15 thought that Jerry Steuerman was involved in
16 this, correct?

17 A Yes.

18 Q Who?

19 A That Jerry Steuerman was
20 involved in it?

21 Q Who said that to you or to
22 another police officer?

23 A Jerry Steuerman, I don't know
24 if they thought he was involved in it or
25 thought he might be capable of doing it. I

1 K. James McCready 160

2 don't remember.

3 Q Well, let's see. Marty
4 certainly said it, correct?

5 A Yeah, Marty.

6 Q Ron Rother said it, right?

7 A Yes.

8 Q Pfalzgraf at the hospital while
9 you were taking Marty to the police precinct
10 or headquarters?

11 A Yeah, I guess so.

12 Q Michael Fox did, right?

13 A I don't know if he said that to
14 me directly.

15 Q To another police officer?

16 A He might have. I don't know.

17 Q And you heard the account that
18 was reviewed today with Mr. Pollack and Mr.
19 Rein that two of the poker players said, in
20 essence, that Jerry Steuerman was the last
21 person to see Marty's father before he was
22 attacked?

23 A Yes.

24 MR. DUNNE: I'll object to the
25 form of that. Did you answer that?

1 K. James McCready 161

2 The answer stands.

3 A Yes.

4 Q And, in point of fact, they did
5 have a bitter fight over money over the
6 course of some period of time; did they, Mr.
7 Tankleff and Mr. Steuerman?

8 A I don't -- Well, let me put it
9 to you like this. From my understanding
10 now --

11 Q Not your understanding now.
12 I'm asking you if at the time did you
13 understand from a variety of people that, in
14 fact, there was a bitter dispute between
15 Tankleff and Steuerman over the money that
16 Steuerman owed Tankleff?

17 A No.

18 MR. DUNNE: I'll object to the
19 form of the question and the
20 characterization. The answer
21 stands.

22 A No.

23 Q There was no dispute?

24 A I didn't say there was no
25 dispute.

1 K. James McCready 162

2 Q It wasn't bitter?

3 A What I'm saying is that it was
4 a business dispute, okay. And what I'm
5 saying is it wasn't -- I don't believe it
6 was over the money. It was over what
7 Steuerman was going to use the equipment for
8 that he had the UCC on and my understanding
9 is that Seymour wanted a piece of that
10 action and Jerry said no and Seymour was
11 upset about that.

12 Q Didn't Steuerman owe Tankleff
13 several thousand dollars?

14 A Yes, he did.

15 Q And wasn't Tankleff demanding
16 payment of that?

17 A That what?

18 Q Wasn't Tankleff demanding
19 payment of that money?

20 A I don't know that he was
21 demanding payment. He might have been
22 demanding payment yes, however --

23 MR. DUNNE: Let him finish.

24 MR. BARKET: Sorry.

25 A However, for Jerry Steuerman to

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K. James McCready 163

kill Seymour and Arlene doesn't make the
debt go away.

Q And Jerry Steuerman knew that?

A What's that?

Q Jerry Steuerman knew that?

A No, I know that.

Q Right, but all I'm concerned
with is what was in Steuerman's mind?

A I don't know. He was all
messed up.

MR. DUNNE: The objection is
obvious, but go ahead.

Q You're saying to me that
legally speaking that you would still owe a
debt to the estate, right, if you owe a
debt. If you kill the people the debt
doesn't disappear, it moves from Seymour to
his wife to the estate, right?

A Right.

Q Do you know how the estate was
settled with that debt?

A No.

Q Did you learn that it was
settled for pennies on the dollar?

1 K. James McCready 164

2 A I don't know.

3 Q In the course of this kind of
4 legal analysis of whether or not the debt
5 continued to exist, did you ever consider
6 the possibility that while the estate would
7 be technically owed the debt, to sue for it
8 and collect on it would be almost impossible
9 because there wouldn't be any witnesses on
10 the plaintiff side, they're dead?

11 MR. DUNNE: I'm going to
12 object. That's more like
13 testifying. Is that a question?

14 MR. BARKET: Yes, that's a
15 question.

16 MR. DUNNE: What is the
17 question?

18 A Did I consider that? No.

19 Q Did you consider the fact that
20 the estate's debt that supposedly they could
21 collect they would have trouble collecting
22 it because the chief witnesses for the
23 estate were both dead?

24 A No.

25 Q It didn't enter your mind and

1 K. James McCready 165

2 you never asked Steuerman what he knew about
3 whether the debt would continue or not?

4 A I don't recall talking to him
5 about that.

6 Q Is it correct that what
7 Steuerman said was, not only did he owe him
8 half the business, "Tankleff thought he
9 owned half of me;" do you remember that
10 quote?

11 A Yes.

12 Q That sounds pretty bitter to me
13 how about to you?

14 A Yeah.

15 MR DUNNE: I'll object to the
16 form of the question. The answer
17 stands.

18 Q If I understand where Steuerman
19 sits in this, he's the last person to see
20 Marty's father before he's attacked.
21 There's an ongoing dispute over money,
22 business, and over whether or not Tankleff
23 owns "half of Steuerman;" is that right?

24 A Yes.

25 Q And that you arrive at the

1 K. James McCready 166
2 scene and within an hour or two you're told
3 by three different family members; the
4 family attorney, the son-in-law and the son,
5 that they all think that Steuerman was
6 involved in this?

7 MR. DUNNE: Told him or he knew
8 that or should have known?

9 Q Told the police that.

10 A The only one that said anything
11 to me about it was him.

12 Q Martin Tankleff?

13 A Yeah.

14 Q But you know that Rother said
15 it to Pfalzgraf; don't you?

16 A I know now.

17 Q And you know that Fox said it
18 to Pfalzgraf as well, right?

19 A Right.

20 Q So my summary of Steuerman's
21 situation is, we have this dispute, we have
22 him being the last person seen with Mr.
23 Tankleff before the attack, and we have
24 multiple people pointing to him, right?

25 A Yes.

K. James McCready 167

Q Okay. You understand what the phrase "lawyering up" means; don't you?

A What?

Q The phrase "lawyering up," what does it mean?

A It means get counsel to represent you.

Q Any questioning stops at that point in time?

A That's right.

Q And part of what goes on in all investigations in dealing with suspects is dealing with this particular rule in New York that prevents any questioning after the individual says that they are represented by a lawyer or a lawyer says that, right?

A Right.

Q Michael Fox, was he a lawyer?

A Yes.

MR. BARKET: Why don't we stop here.

THE VIDEOGRAPHER: Going off the record at 3:05 p.m.

(At this time, a brief recess

K. James McCready

168

was taken.)

THE VIDEOGRAPHER: Beginning of
Tape 4. Back on record at 3:15 p.m.
You may proceed.

CONTINUED EXAMINATION BY

MR. BARKET:

Q We left off with Mr. Fox is a
lawyer and you knew he was a lawyer because
Marty told you that he was his uncle and the
family business lawyer of some sort?

A Yes.

Q And at some point in time
you're speaking to Marty -- By the way, at
the point in time when Mr. Fox arrives, by
then Marty is certainly a suspect in this;
isn't he?

A Yes.

Q You had done your walk-thru,
all the things that you and Mr. Rein said
you observed?

A I'm very suspicious of him,
yes.

Q Right. And you want to
continue to speak to him, right?

1 K. James McCready 169

2 A Pardon me?

3 Q You wanted to continue to speak
4 to him, correct?

5 A Yes.

6 Q And, in fact, when Mr. Fox
7 shows up, if he says to you, I'm Marty's
8 lawyer, questioning stops, right?

9 A Yes, if he said that, that
10 would have happened.

11 Q Right. Questioning would have
12 to stop, right?

13 A Yes.

14 Q So when he shows up you run
15 over to greet him; is that right?

16 A I walked over to him.

17 Q Why did you go over to him?

18 A Because I think -- I'm not
19 sure. I think Sergeant Doyle was talking to
20 Marty at the time. I believe he was. And I
21 walked over to him and introduced myself and
22 we had a brief conversation and he asked me,
23 you know, I explained to him that we're
24 interviewing Marty and that -- I remember
25 him saying something about -- oh, I asked

1 K. James McCready 170

2 him what he wanted me to do with Marty when
3 we were finished with him and he asked me to
4 bring him to the hospital.

5 Q Did you tell him you were going
6 to bring him to the headquarters?

7 A I don't know if I told him at
8 that point or not. I forget.

9 Q Did you tell him that Marty was
10 a suspect in the murder of his parents?

11 A No.

12 Q Did you tell him that you were
13 highly suspicious of some of the things that
14 Marty said?

15 A No.

16 Q You told him that Marty was
17 giving you the information that he had?

18 A Yeah, I told him that he was
19 giving us information, yes.

20 Q And was there some interaction
21 between Marty and Michael Fox?

22 A I'm not sure if he said, Hi
23 Uncle Mike or something like that. I forget
24 exactly.

25 Q There was some account that was

K. James McCready

171

1
2 given, maybe it was from one of the other
3 witnesses, but something along the lines of
4 that he came over and said to Marty, are you
5 okay and Marty said, yeah, I'm fine, and
6 that was it?

7 A I really don't recall right
8 now. I know I think what it was when I was
9 talking to Marty, Marty was saying something
10 about Fox, about his Uncle Mike was the
11 lawyer for his father's businesses or
12 whatever, and that he knew all about
13 Steuerman. And then he said to me -- he
14 said, as a matter of fact, that's him right
15 there now coming over.

16 Q You know what I'm wondering
17 about? I'm wondering why it is that Uncle
18 Mike and Marty didn't, if they saw each
19 other and you didn't prevent them from
20 speaking, why is it they didn't have a more
21 in-depth conversation?

22 MR. DUNNE: Really? Objection.
23 You want him to speculate to their
24 mind?

25 MR. BARKET: No, no. I guess

1 K. James McCready 172

2 that's not fair; is it?

3 I'll ask in a way that maybe it
4 can answer some questions.

5 Q Uncle Mike was a close friend
6 of the Tankleff family, yes?

7 A Yes.

8 Q He arrives at the scene where
9 his close friend was brutally attacked and
10 his wife murdered, right?

11 A Yes.

12 Q The young man that you're
13 questioning refers to Mike as Uncle Mike,
14 right?

15 A Yes.

16 Q And, in fact, it turns out
17 that -- I don't know if you knew this at the
18 time, but did you learn later that Uncle
19 Mike was Marty's Godfather?

20 A No, I didn't know that.

21 Q And at this moment of family
22 trauma, fair to say, right?

23 A Yes.

24 Q That the interaction between
25 these two individuals, the surviving son and

K. James McCready 173

the uncle, "Uncle Mike", sounds like they saw each other at a ball game. That's what your testimony is?

MR. DUNNE: I object to the form of that.

A Let me explain this. I'll tell you right now, if Uncle Mike wanted to go over and talk to that kid, we would have more than allowed him to talk to him. I didn't ask him if he wanted to talk to the kid. He didn't say he wanted to talk to him. Had he asked me, had he said I want to go talk to him or whatever, I would have let him talk to him. I had no problem with that.

Q So the fact that these two individuals didn't have any conversation, had nothing at all to do with you wanting to prevent Marty from being quote/unquote "lawyering up," right?

A No.

Q You wouldn't have cared if Uncle Mike had said, stop talking to this kid?

K. James McCready

174

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2 A Oh, I would have cared if he
3 said that. If he was going to say that, he
4 would have said it right there and then to
5 me, whether he's standing next to him or
6 10 feet away from him. But that's not what
7 he did. He came up and introduced himself,
8 told me he was a business lawyer for
9 Seymour. He gave me his card and never
10 asked to speak to the kid.

11 Q Was it at this point in time
12 that Sergeant Doyle says, time to move.
13 Let's get him out of here, referring to
14 Marty?

15 A No. No. I don't even know if
16 Norman was there yet when that occurred.

17 Q Why? Why would you take Marty
18 from the scene to headquarters and not to
19 the hospital?

20 A Because we wanted to talk to
21 him more.

22 Q About what?

23 A About everything.

24 Q Well, what do you mean about
25 everything?

1 K. James McCready 175

2 A About what happened, the
3 murders. You know, you don't just talk to
4 somebody for a half hour and say, okay, go
5 ahead to the hospital.

6 Q Isn't that what you did with
7 Jerry Steuerman?

8 A What?

9 Q Isn't that what you did with
10 Jerry Steuerman?

11 A No.

12 Q I thought you had a half hour
13 conversation with him at his restaurant?

14 A I did.

15 Q And you let him go on his way?

16 A Jerry Steuerman wasn't a
17 suspect.

18 Q Oh, I see. I see, so Marty was
19 a suspect. You weren't going to chat with
20 him and let him go. You wanted to bring
21 Marty back to the precinct because you
22 thought he committed the murders?

23 A I didn't know for sure if he
24 committed the murders. I was suspicious of
25 him, yes.

1 K. James McCready 176

2 Q So you wanted to bring him back
3 to the precinct. And Marty was, according
4 to you, not asking to go to the hospital
5 with his dad?

6 A No.

7 Q He was like, sure, I'll go to
8 the precinct, never mentioned the hospital?
9 That's your testimony?

10 A That's right.

11 Q You're sure of that, right?

12 A Yes.

13 Q It's not that Marty was saying,
14 I want to go the hospital and you're saying
15 I'll bring you there afterwards, but let's
16 talk about Steuerman more at the present?

17 A Marty never said anything to me
18 about going to the hospital. The only one
19 that mentioned the hospital was Mike Fox
20 when he said, when you're done with him
21 would you bring him to the hospital. I said
22 yeah.

23 Q Did you tell Marty that you
24 wanted to go back to the hospital or
25 headquarters to talk about Jerry Steuerman

K. James McCready

177

1
2 some more?

3 A I wanted to talk to him about
4 everything, Jerry Steuerman included.

5 Q What you wanted to talk to him
6 about and what you told Marty may or may not
7 have been two different things?

8 A I don't remember the exact
9 language that I used, but I wanted to keep
10 discussing this case.

11 Q You certainly didn't tell him I
12 wanted to bring you back to headquarters
13 because I think you committed these crimes?

14 A No.

15 Q So you told him something other
16 than what was going on inside your head?

17 A I told him that I wanted to
18 continue talking to him about the murder
19 investigation.

20 Q In fact, you wanted to
21 interrogate him about it, right? You
22 thought he was involved in the murders?

23 A I didn't know if it would ever
24 get to an interrogation at that point.

25 Q You thought he was involved in

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K. James McCready

178

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the murders; didn't you?

3

A I was suspicious of him, yes.

4

Q And you wanted to get a

5

confession from him?

6

A I didn't know if he'd give me a

7

confession or not.

8

Q Well, none of us can see the

9

future. We all want things and sometimes we

10

get them and sometimes we don't. You wanted

11

a confession; didn't you?

12

A I wanted a confession after he

13

confessed, yes.

14

Q The point of bringing him back

15

to the precinct, putting him in an

16

interrogation room, sitting him down with

17

you and Rein going through the sequence of

18

things the way you did was to get a

19

confession from him, right?

20

A It was down the road if that

21

occurred because of him confessing, yes,

22

then it's to get the confession. I didn't

23

know whether he was going to confess to this

24

or not.

25

Q Sure. You couldn't have known

1 K. James McCready 179

2 what was going to happen in the future but
3 remember we spoke earlier about kind of how
4 you treat people, suspect witness. This
5 point Marty is a suspect; isn't he?

6 A Yes.

7 Q He's being treated as a suspect
8 by you, correct?

9 A Yes.

10 Q You don't tell him that, of
11 course, right?

12 A No.

13 Q But in your mind this is a kid
14 I want to interrogate. I want to know what
15 happened. You think he killed his parents,
16 right?

17 A Yes.

18 Q And you want him to -- It's
19 your job. We talked about this before.
20 Your job is to get confessions from people
21 that are guilty, right?

22 A Yes.

23 Q And you were going back to the
24 precinct or headquarters to do your job and
25 interrogate this kid and get a confession

K. James McCready

180

from him?

A Yes. But again, even though I was suspicious of him, I don't know whether or not he actually did the murder because -- I'm not saying that Jerry Steuerman at that point in time wasn't a viable suspect also, but as it turned out Jerry left and got home at 3:16 in the morning so he had to act pretty quick to do that murder if he left the house at 3 o'clock.

Q Who is his alibi?

A His daughter.

Q That's it?

A Well --

Q In the course of your dealings as a police officer and investigator, have you ever seen a false alibi by a family member?

A Yes.

Q So I'm going to stick with what happened with Marty and we'll get to Jerry in a little bit. I promise you we'll talk about him some more.

As we go through this, it was

1 K. James McCready 181

2 the decision of the police department,
3 whether it be Sergeant Doyle, Detective Rein
4 or you to bring Marty back to that precinct,
5 correct?

6 A Yes.

7 Q It was the decision that you
8 all made to put him into a room, correct?

9 A Yes.

10 Q It was a decision you all made
11 to have yourself and Detective Rein in that
12 room with him, yes?

13 A Yes.

14 Q It was a decision you made
15 about how the questioning would unfold,
16 correct?

17 A I guess you could say that.

18 Q Sure. You directed the
19 questioning; didn't you?

20 A Well, we both did.

21 Q And I think Detective Rein said
22 the first thing he did was engage in some
23 small talk because you wanted to get him
24 speaking, get the idea of you asking
25 questions and him answering them?

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K. James McCready 182

A Right.

Q Did Marty during the course of this say, I want to see my Uncle Mike. I want a lawyer. I want to go to the hospital?

A No.

Q Well, he says flat out that happened. You say flat out it didn't, right?

A Who said that?

Q Marty says that.

A No, I don't care what he says.

Q You don't believe that?

A No. He did not say that and that did not happen.

Q According to you?

A It didn't happen, period, alright.

Q Well, you know there was a way that we could have found out what happened in that room; wasn't there? We wouldn't have to have this argument now?

A What was that?

Q You could have recorded it;

K. James McCready

183

1
2 couldn't you?

3 A Well, we had a procedure with
4 regard to that, okay. The procedure was you
5 get an oral, you get a written, and then you
6 have a district attorney come in, assistant
7 district attorney come in and they
8 videotape.

9 Q You're telling me that there is
10 a procedure in the Suffolk County police
11 department in 1988 that prevented you from
12 recording the conversation you had with
13 Marty from 9:40 until 1:20 that day?

14 A No, I'm not saying that, but
15 what I'm telling you is that was what the
16 procedure was.

17 Q This is the part where I don't
18 understand this because you're a seasoned
19 detective by that point in time, right?

20 A Yes.

21 Q You understand how the system
22 works; don't you?

23 A Yeah.

24 Q You know if you get a
25 confession from somebody that the person may

K. James McCready

184

1
2 very well end up having a lawyer saying,
3 hey, geez, he beat it out of me, he tricked
4 it out of me, he lied, I demand a lawyer,
5 all this nonsense?

6 A Yes.

7 Q And you end up having to go
8 through these hearings; don't you?

9 A Right.

10 Q And the whole hearing is
11 whether or not the confessions are
12 admissible or not admissible, right?

13 A Right.

14 Q You have it within your power
15 auto eliminate that process by pushing play
16 on a recording of the interrogation, right?

17 A Well --

18 Q Is that true?

19 A Let me tell. You're absolutely
20 right but that's not what our procedure was,
21 what can I tell you.

22 Q Your procedure, what you did
23 that day, leaving aside the procedure, is
24 you have a choice to make. You say to
25 yourselves, we can get more evidence of what

1 K. James McCready 185
2 actually takes place here or we can set this
3 up so it's our word against the Defendant's
4 word?

5 MR. DUNNE: Objection to the
6 form of the question. Go ahead and
7 answer that as best you can.

8 A What I'm saying to you is I
9 don't disagree with what you're saying, but
10 I'm telling you that it wasn't our procedure
11 at that time, you know.

12 Q The procedure for the police
13 department was to get less evidence?

14 MR. DUNNE: No, objection to
15 the form.

16 A No.

17 Q Wouldn't recording of the
18 interrogation provide more evidence?

19 A Certainly.

20 Q And you didn't do anything
21 wrong; did you?

22 A No.

23 Q And if there is a recording we
24 would have proved it absolutely, right?

25 A Yes.

K. James McCready

186

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2 Q All the claims that Marty made
3 about you feeding him things and everything
4 that went on would have been disproven by
5 this recording, right? So that every
6 Defendant who's ever made a claim like that
7 they could be disproven by simply, here's
8 the recording, here's what I said, right?

9 A Yes.

10 Q And this is 1988, not 1948, you
11 all had tape recorders; didn't you?

12 A Yes.

13 Q Is it true that the reason you
14 don't record this is that if you record it
15 you have to be cautious about what you say.
16 You have to watch the words that you use.
17 The recording would inhibit your
18 interrogation techniques?

19 A Possibly, yes.

20 Q So that the decision to record
21 and not to record is not just based on what
22 Rein said on what it does for the Defendant,
23 you don't want to have your own technique
24 inhibited. You don't want to be watching
25 your words, cautious of your language, while

1 K. James McCready 187

2 you're interrogating a suspect; do you?

3 MR. DUNNE: Objection to form.

4 Go ahead and answer.

5 A I would -- Actually, I wouldn't
6 have had any objection to that; however,
7 that's not what our procedure was at the
8 time.

9 Q I'm asking you if one of the
10 reasons why you don't record interrogation
11 is because if you did, you, Detective
12 McCready, would have to watch your words.
13 You would have to be cautious of what you
14 said; is that true?

15 MR. DUNNE: Objection to the
16 form of the question. Go ahead.

17 A Yes. Yes. What can I tell
18 you, yes. I'm being recorded right now.
19 It's not bothering me.

20 Q Me neither.

21 A Okay.

22 Q For what it's worth. And we
23 have a court reporter here and you know what
24 won't happen at the end of this?

25 A What?

1 K. James McCready 188

2 Q We won't dispute what was said
3 because it's recorded.

4 MR. DUNNE: Counsel, that's
5 colloquy. Let's get the facts.

6 Q Did you know Joe Creedon at or
7 about this time?

8 A I never ever in my life ever
9 met Joe Creedon.

10 Q Did you investigate him?

11 A No.

12 Q Did your team investigate him?

13 A Did what?

14 Q Did your team investigate him?

15 A Not that I'm aware of.

16 Q Did you tell Erin Moriarty when
17 she was asking you about Creedon that your
18 team investigated Creedon?

19 A Not that I'm aware of.

20 MR. BARKET: We're going to
21 mark an exhibit and then cue it up.

22 Let's mark this 87.

23 (Whereupon, Plaintiff's Exhibit
24 87, video tape, was marked for
25 identification.)

1 K. James McCready 189

2 (At this time, video is being
3 played.)

4 MR. BARKET: Mr. McCready is
5 saying he can't hear it. Can you
6 walk across?

7 (Video continues to be played.)

8 A Can we stop the tape. I didn't
9 say my team investigated Joe Creedon. I
10 said there were six people in my squad who
11 all agreed that he was the murderer. Nobody
12 in our squad investigated Joe Creedon.

13 MR. BARKET: Okay. We'll
14 continue on. You can turn that off
15 for now.

16 Q Just to be clear, Joe Creedon
17 is a name that's come up throughout the
18 course of this case; isn't it?

19 A Yes.

20 Q It wasn't something that came
21 up just recently when Marty's conviction was
22 reversed and he was exonerated, right?

23 A No, no.

24 Q It was back in 1990 before the
25 trial he came forward and said that Jerry

K. James McCready

190

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2 Steuerman had offered him money to cut out
3 Marty Tankleff's tongue, right?

4 A That's what I hear or words
5 that that effect, whatever. I have no idea.
6 I never spoke to Joey Creedon. I wouldn't
7 know Joey Creedon if I tripped on him.
8 Well, I've seen him now. I've seen his
9 picture anyway.

10 Q Right. But back in 1990 Joe
11 Creedon is telling Bob Gottlieb, Marty's
12 lawyer, who's telling the court and the DA's
13 office that Steuerman is offering money to
14 have quote/unquote Marty's tongue cut out of
15 his mouth.

16 Did you do anything with that?
17 Did you investigate it?

18 A No.

19 Q Do you know a person by the
20 name of Carl Klein?

21 A Who?

22 Q Carl Klein.

23 A Carl Klein?

24 Q Yes.

25 A No.

K. James McCready

191

Q Skippy Dwyer?

A No.

Q Never heard of Skippy Dwyer?

A No.

Q Gambino Associates, "no thumbs," literally?

A No.

Q Sal Scala? "Fat Sally Scala"?

A Not that I recall.

Q You were in rackets, right?

A Yeah.

Q You don't remember him being a captain of the Gambino crime family, lived out in Fort Salonga?

A I don't remember that. That's a long time ago.

Q Ronnie Diconata (phonetic)?

A No.

Q When did you first learn that Steuerman's son was selling cocaine from the bagel store?

A I didn't learn that, somebody else did. I heard that but I didn't know that.

1 K. James McCready 192

2 Q I want to give you a chance to
3 respond specifically to some allegations
4 that were made about you, and I'm not asking
5 the questions because I believe or
6 disbelieve them but part of my job.

7 A Not to worry.

8 Q Do you know who Don Hayes is,
9 right?

10 A Yeah.

11 Q Dan or Don?

12 A Dan, I think it is.

13 Q Dan Hayes. He's the individual
14 who was in business with Marty's father at
15 the gym, right?

16 A Right.

17 Q And the individual who would
18 come and stay with Marty when the parents
19 went on vacation, right?

20 A Right.

21 Q He's reported that you were
22 taking money from Steuerman at the time to
23 protect the bagel store, the drug business?

24 A He's full of shit. And I'm
25 telling you this right now, I never stepped

K. James McCready

193

1 foot in that bagel store, Jerry's bagel
2 store, until after this murder. I did not
3 know Jerry Steuerman before this murder, did
4 not know Joey Creedon before this murder,
5 did not know that other moron Kent, or
6 whatever his name is, before this murder.
7 Never met any of them except Steuerman after
8 the murder.
9

10 Q He also reports -- And again, I
11 don't want to own it or disown it, I'm just
12 here to ask the questions so you can respond
13 to them.

14 He also reports that recently
15 you were still coming up to Long Island to
16 do collections work, as he put it, for
17 organized crime figures.

18 A Wait a minute. This guy make
19 this shit up?

20 MR. DUNNE: Just answer the
21 question.

22 A I never heard such a bunch of
23 bullshit in my life.

24 Q I'm not saying it's true, it's
25 not true. I'm just giving you a chance.

K. James McCready

194

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2 It's information that's in the public
3 record. I want to ask you about it. You
4 can respond anyway you like.

5 A No, it's bullshit. It's all
6 lies.

7 Q But it's not a lie that
8 Steuerman's son ended up getting arrested
9 and prosecuted for selling drugs out of the
10 bagel store, right?

11 A I really don't know. I heard
12 that happened. I'm not sure. I think I met
13 him once, the kid. I'm not even sure if he
14 was there when we brought Jerry back from
15 California.

16 Q Well, at the time that this was
17 going on, so 1988, you were in the homicide
18 squad, right?

19 A Yes.

20 Q Okay. So part of your function
21 wouldn't have been to police narcotics. I
22 mean if you saw it going on, you'd stop it
23 but that's not --

24 A Sure, right.

25 Q You're investigating murders?

1 K. James McCready 195

2 A Yeah.

3 Q Again, don't --

4 A I know.

5 Q -- don't get mad at me or do
6 but?

7 A -- I just can't believe that
8 you're that gullible that you believe this
9 stuff.

10 Q I'm not staying I believe it.
11 I'm saying that there's questions, you get
12 to answer them, we move on.

13 Where were your brothers
14 assigned then?

15 A My brother Gene was in
16 homicide; Tommy was in arson; Kevin was off
17 the job.

18 Q Okay. Did one of your brothers
19 end up getting arrested and prosecuted?

20 A Yes.

21 Q Which one was that?

22 A Kevin.

23 Q Sorry. What happened with him?

24 A He abused his medication and
25 ran into some young lady and killed her in a

K. James McCready

196

car accident.

Q When was that?

A I actually don't recall, I really don't. I know he did -- I think he did six years for it.

Q I'm sorry. I'm sure that must have been hard for you and your family, I really am.

In 1988 to 1990, were any of the McCready brothers, if you will, any of you, involved in narcotics enforcement?

A No.

Q You're sure of that?

A Yeah. Oh, you're getting us mixed up with Dennis McCready?

Q I'm not getting you mixed up with anybody. I'm looking to --

A There was a guy in narcotics named Dennis McCready but he was no relation of mine.

Q He was in narcotics at the time?

A I don't know, but I know he was in narcotics squad. And he didn't do it

K. James McCready

197

1
2 either.

3 Q Didn't do what?

4 A Whatever you're accusing me of
5 doing.

6 Q I'm not accusing you of
7 anything. I could not be clearer about
8 that. I'm asking questions. If I was
9 accusing you, I wouldn't be shy about saying
10 it. I'm just asking you questions about
11 what went on.

12 Whether you were involved in
13 narcotics or not, is it fair to say that the
14 drug trade back in the late eighties kind of
15 exploded with crack; do you remember that?

16 A I guess.

17 Q That crack came on the scene in
18 the mid-eighties and between the
19 mid-eighties and early nineties we had
20 literally an explosion of drug trafficking,
21 homicide, violence, because of crack and
22 cocaine?

23 A I guess it's fair to say.

24 Q It was kind of a different time
25 if you remember it, right?

1 K. James McCready 198

2 A Yes.

3 Q And were you aware of any
4 prominent lawyers that were involved in
5 narcotics back then?

6 A No.

7 Q Again, it's not me I'm just
8 asking the questions, right?

9 A Yeah.

10 Q Didn't Tommy Spota have a
11 partner who passed away of a drug overdose?

12 A Tom Spota? Not that I'm aware
13 of.

14 Q How about Billy Keahon, the
15 lawyer, didn't he have some problem with
16 narcotics?

17 A I'm not sure. I think he might
18 have been smoking grass or something like
19 that. I'm not sure.

20 Q Well, at the time that your
21 criminal trial was going on in front of
22 Arthur Pitts -- Is that right?

23 A Yeah.

24 Q -- he was involved in a fairly
25 serious car accident himself; wasn't he?

1 K. James McCready 199

2 A Could have been. I'm not sure.

3 Q Bill Keahon was involved in a
4 very serious car accident?

5 A It could have been, I'm not
6 sure.

7 Q It involved alcohol and/or
8 drugs?

9 A I believe so. I'm not sure.

10 Q Were you aware that in addition
11 to representing you that Tom Spota had
12 previously represented Steuerman's family?

13 A No.

14 Q The other thing -- and I guess
15 I'll continue on this, give you a chance to
16 respond to things -- Joe Creedon made
17 admissions to a number of individuals,
18 according to the public record and the
19 hearings, you're aware of that, right? Joe
20 Creedon bragged about committing this
21 murder?

22 A Oh, yeah.

23 Q There's not any dispute about
24 that, right?

25 A I read about it but he didn't

K. James McCready

200

do it.

Q Well, I understand that's your view, but you have somebody here who is connected -- Did you know, for example, that he admitted doing collections work for Todd Steuerman's drug trade?

A I don't know.

Q You didn't know that?

A No.

Q You're just learning it now for the first time?

A I don't know. I've heard so much about him I don't remember half the stuff that I heard about him.

Q Well, we do know that Steuerman's son was selling cocaine from the bagel store, right?

A I had heard that, yes.

Q He actually got arrested and prosecuted for that, right?

A I heard that.

Q And you're saying that you didn't know that Creedon was doing collections work for him?

K. James McCready

201

A No.

Q You didn't know that. Did you know that Jerry Steuerman had hired somebody to -- a motorcycle gang to kind of rough up some employees in a business dispute?

A I think I know that story, and I think that's just what it is. It's a story. I think Jerry made the whole thing up to be honest with you.

Q In addition to the other information that we have about Jerry Steuerman, we know that his son is selling drugs out of the bagel store that he's operating and that he's one step removed from this guy Creedon who says that Jerry was offering him money to hurt Marty. And we know that Creedon has admitted in court under oath that he was collecting drug money for Todd. Does this information add to your view of the Tankleff case at all?

A No. The only thing that adds to this case, the headache of -- because it's all bullshit, all right. He's full of shit. I know he's full of shit, the whole

1 K. James McCready 202

2 world knows he's full of shit.

3 Q But when you say "he" who is
4 he?

5 A Creedon.

6 Q Well, he's not full of shit. I
7 mean he's under oath and I think Todd got
8 convicted of selling cocaine, right?

9 Creedon says he collected money. The fact
10 that somebody sells drugs and has a
11 collector that's not shocking to you; is it?

12 A That somebody -- No, that's not
13 shocking to me but when --

14 Q That kind of violence goes on
15 all the time?

16 A But my point is --

17 MR. DUNNE: Let him finish.

18 A His involvement in this case.

19 Q But, you know, it's just not
20 somebody who's shooting his mouth off in the
21 street. This is a guy who is connected to
22 Steuerman's son with violent criminal
23 conduct of collecting money for drug trade
24 in the late eighties and early nineties.

25 A Yes.

K. James McCreedy

203

MR. DUNNE: Go ahead.

Q And so when you say he's just shooting his mouth off about the murder, does the fact that he is so closely connected to Steuerman, does that add anything to your view of whether or not his admission to his bragging may have some validity?

MR. DUNNE: I'm going to object to the form of the question and the colloquy before it. Go ahead.

A No.

Q Would the fact that -- If I were to add in that another individual came forward and has made multiple admissions that he too was involved in the murder of the Tankleffs with Joe Creedon, would that matter to you?

A Which clown is this now?

Q Well, clown or not, we have several of them.

MR. DUNNE: Note my objection to the form of the last couple of questions. Go ahead.

1 K. James McCready 204

2 Q We have several of them. But
3 the fact is that you're aware of the record
4 from the 440 here, right, that led to
5 Marty's reversal of conviction and the
6 exoneration; you're aware of that record,
7 right?

8 MR. DUNNE: I object to the
9 exoneration part.

10 MR. BARKET: He's sitting over
11 here but go ahead. You can
12 characterize it any which way you
13 want.

14 Q You know the regard that took
15 place here, right?

16 A They said they'd give him a new
17 trial, alright. And all I know because of
18 the change in the law we couldn't retry him,
19 alright.

20 Q What stopped you from retrying
21 him?

22 A Because I think he was
23 convicted on the difference of human life
24 murder on his mother.

25 Q Only to his mother.

K. James McCready

205

A What?

Q Only to his mother. He could have been prosecuted for his father if they thought they he did it.

I'm not supposed to give you information. Count that as a free bit of information.

MR. DUNNE: But you're assuming that that's the reason why they chose not to do it but anyway --

Q Let's go back to the question. You're saying that the fact that Jerry Steuerman had the dispute, that other people thought he was involved, that he was the last person to be seen with Marty's father before he got attacked doesn't mean that Jerry did it, you don't think he did it.

Now I'm asking you to add some more facts into it, things that are actually facts. Todd, his son, is selling drugs, cocaine, out of the bagel store. You say, oh, that doesn't matter, I still don't think Jerry did it. Now I'm asking you to add in more facts, which is Creedon who says he's

K. James McCready

206

collecting money for Todd Steuerman. He swore to it under oath at the hearing. You're saying that doesn't matter. Now I'm asking you to add more facts to it, that Creedon as been boasting about committing this murder for a decade and you're saying that doesn't matter. Now I'm adding more facts, that other people that Creedon was involved with at the time, that he committed crimes with, they too are saying, look, we did this and here is how it happened, and I'm asking you if that matters to you?

MR. DUNNE: Again, I'm going to object to the entire set of colloquy and questions. Go ahead and answer.

A Absolutely not.

Q Okay.

A What was the term -- I think I read it somewhere. Oh, Judge Braslow, "nefarious scoundrels." You've got a pretty damn good list of them right there.

Q That's the people that would be involved in a brutal murder of family to protect somebody's business interest like

1 K. James McCready 207

2 Jerry Steuerman, right? You wouldn't --

3 MR. DUNNE: Objection to the
4 form.

5 Q You wouldn't get alibis, you'd
6 get nefarious scoundrels to be involved in
7 the murders.

8 MR. DUNNE: Object to the form
9 on multiple grounds but go ahead.

10 Q I mean it just kind of begs the
11 question, is there anything that would
12 change your view?

13 A No.

14 Q Nothing?

15 A No.

16 Q No matter what evidence came
17 forward your view is going to always be that
18 you got it right, that Martin Tankleff is
19 guilty no matter what?

20 A Absolutely.

21 Q One of the things that came up
22 from Creedon is that his son reported that
23 Creedon admitted it to him in kind of a
24 bizarre bragging to his son -- I guess
25 that's what criminals do -- look how tough I

1 K. James McCready 208

2 am, I was involved in the Tankleff murders.

3 You're aware of that, right?

4 A Yes.

5 Q And in fact, his son reports
6 that Creedon reported -- I'm not saying, I'm
7 not saying it's true. I'm just asking the
8 question -- that you were given money -- I
9 think the figure was \$100,000 -- to keep
10 Creedon out of it, his name out of it?

11 A I've heard that.

12 Q Is that true?

13 A And supposedly he was paid
14 \$50,000 to do the murder.

15 Q Well, where did that come from
16 because you've said that before. You've
17 said that on a couple of television shows
18 that he was supposedly paid \$50,000?

19 A I don't know. I don't know.
20 Somebody came up with that. As a matter of
21 fact, that's why I had to laugh when -- what
22 was it, Dr. Phil, whatever, I was being
23 facetious. He asked me something about that
24 and I said, yeah, right. I said, so that
25 means he took a \$50,000 loss. It cost him

1 K. James McCready 209

2 \$50,000 to do the murder now if I got
3 100,000. I being facetious.

4 Q Without being facetious, I'm
5 just going to ask you flat out because I
6 kind of have to, but I really do want to ask
7 you this. Did you receive any money from
8 Joe Creedon?

9 A Are you out of your mind?

10 Q I'm just asking the questions.

11 A The answer is no.

12 Q Did you receive any money from
13 Jerry Steuerman?

14 A No.

15 Q Did you know Jerry Steuerman
16 before these murders?

17 A No.

18 Q Jerry Steuerman the person who
19 told you about the card game?

20 A What's that?

21 Q You said before that there was
22 information -- you had information that this
23 was a card game on route to the murders.
24 Did you get the --

25 A I could swear I had that, yes.

K. James McCready

210

Q Did Jerry Steuerman tell you about the card game?

A No.

Q Is that how you knew it was a card game because you knew Jerry Steuerman?

A No. I think I may -- I thought it might have come through --

Q Did you have a chance to talk to Sergeant Doyle over the break?

A Yeah, but we didn't talk about that.

Q Did you talk about this?

A No.

Q You do know there is a person --

MR. DUNNE: Wait. Finish the answer.

A I don't know where I got it from. But I'm telling you it was not through Steuerman. I thought it came from Sergeant Doyle and I'm not sure. For whatever reason it seems to me like I knew about the card game, that it was a card game or something.

1 K. James McCready 211

2 Q This is a --

3 A I don't know where or how I got
4 that information.

5 Q This is a high stakes poker
6 game. Several thousand dollars got traded
7 every week, right?

8 A Right.

9 Q Or every month, whatever the
10 poker game was and it involved prominent
11 people in the community, right?

12 A Yes.

13 Q And this was a community where
14 you worked, right?

15 A Yes, but I didn't know any of
16 them.

17 Q There's a person by the name of
18 Lenny Lombrano who's testified that he saw
19 you and Jerry Steuerman together and that
20 you guys had business dealings together.

21 A I wouldn't know him if I
22 tripped over him.

23 Q Lenny Lombrano or Jerry
24 Steuerman?

25 A I didn't know Jerry Steuerman

1 K. James McCready 212

2 then and I still don't know who Lombrano is.

3 Q Okay. Well, there is another
4 individual, William Sullivan, who ran a bar.
5 I think it's called Kerrington's. Are you
6 familiar with that? It's a bar you went to?

7 A Yes.

8 Q He worked there at the time as
9 a host or maitre' d or assistant manager and
10 he says that he saw you and Steuerman there
11 together on several occasions.

12 A He's mistaken. I've never been
13 there; not with Jerry Steuerman. I think
14 the last time I was in that place was --
15 Jerry -- the assistant district attorney
16 that retired. As a matter of fact, I think
17 he died now. I think he's been dead a long
18 time.

19 Q There's another individual
20 Kirsten Stanton who said -- Kirsten Stanton,
21 she's a student in a class that you gave a
22 speech to shortly after the conviction of
23 Marty, and she reports in an affidavit that
24 you said that Jerry Steuerman is the nicest
25 guy in the world, that you've known him for

1 K. James McCready 213

2 years and that he couldn't have been
3 involved in that.

4 A (Laughing.) I don't know where
5 these people come out of the woodwork.

6 Q I don't know where they come
7 out the woodwork either, but Steuerman owned
8 the bagel store in a community that you
9 lived and worked in, right?

10 A Yes.

11 Q He's involved in a high stakes
12 poker game with other prominent people in
13 the community, yes?

14 A Yes.

15 Q A pizza guy, a bar owner and a
16 student all say that you know him or knew
17 him before the murders?

18 A I don't care what they say.
19 And by the way, I'll take a polygraph exam
20 on that if you'd like.

21 Q Well, I'll tell you what, if
22 you'll credit Marty's polygraph that he
23 passed, I'll give you one on that issue,
24 how's that? Is that a deal?

25 A No.

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K. James McCready 214

Q Because he took a polygraph after you wouldn't let him and he passed. Does that mean anything to you?

MR. DUNNE: Objection. Guys enough with the colloquy. Get to the questions.

Q Did you do any investigation of Jerry Steuerman at all back in 1988 other than talk to him in his bagel store?

A Well, we went out to California and picked him up.

Q Oh, right. And all the things that raise suspicion about Steuerman, I literally forgot about that. One of the things is that the guy fakes his own death, right?

A Yeah.

Q Changes his appearance and flees under an assumed name after emptying out a bank account?

A You're right.

Q That coupled with other things falls into the category, no matter what you think Marty did this?

1 K. James McCready 215

2 A Did you see Jerry Steuerman on
3 the witness stand for three days?

4 Q I'm not supposed to answer
5 questions but sure, I'll do it.

6 MR. DUNNE: Would you like me
7 to object on your behalf?

8 Q I've gone through the trial,
9 yes. I know what he said.

10 A Alright, but you didn't see his
11 face.

12 Q No, I did. I actually did.
13 You're not the only videotape I've seen.

14 A Well, I'm going to tell you
15 right now there is no way Jerry Steuerman
16 did this murder or was connected to this
17 murder or hired anybody to do this murder.

18 Q Because why?

19 A Because Jerry Steuerman didn't
20 do it.

21 Q Well, no, I get the conclusion.
22 The why part is, why do you say that?

23 A Because I interviewed him and
24 Sergeant Doyle interviewed him at great
25 length and I'm telling you that the man that

1 K. James McCready 216

2 I spoke to is a nefarious scoundrel, I will
3 say. I know kids that he cheated out of
4 money in the bagel store. As a matter fact,
5 when I went to California to get him, I made
6 him give me ten bucks to give back to one of
7 the kids that he stole ten bucks from.

8 Q Sorry, I'm not supposed to
9 laugh but, okay.

10 Look, you trust your judgement,
11 right?

12 A Yes, I do.

13 Q You trust your gut and it
14 really may be right 90 percent of the time
15 but would you grant me that it ain't
16 perfect?

17 A Oh, I'm not perfect.

18 Q So when you say that I know
19 Jerry Steuerman didn't do this because,
20 although he's a nefarious scoundrel, and he
21 was the last to see Marty's parents alive,
22 he's connected to Creedon and drugs and all
23 this other stuff, at some point does your
24 gut yield to the evidence?

25 MR. DUNNE: I will object to

1 K. James McCready 217

2 the form of the question. Go ahead.

3 A What you have is a bunch of
4 bullshit from a bunch of morons, alright.
5 Don't get me going there either about what
6 your investigator did with some of these
7 witnesses.

8 Q Get going with it. What are
9 you referring to?

10 A Some of those witnesses weren't
11 paid money?

12 Q I get to ask questions and
13 answer questions.

14 Are you aware that witnesses
15 are allowed to be reimbursed for travel?
16 You got paid to come up here today?

17 A Yes.

18 Q You got paid to get put up in a
19 hotel?

20 A Yes.

21 Q You actually got paid money for
22 your wages for today, right?

23 A Yes, I'm up here representing.

24 Q Let's just move from you, a
25 retired detective, if you were a civilian

1 K. James McCready 218

2 witness that lost time from a job at a State
3 proceeding, are you aware that it would be
4 appropriate for the attorney to pay for the
5 travel, pay for the accommodations and pay
6 for the lost wages; is that fair?

7 A More than fair. You're right.

8 Q Okay. So the individuals that
9 you say are, whatever you described them,
10 you've never spoken to any of them; have
11 you?

12 A No.

13 Q Have you read their testimony?

14 A No.

15 Q And you certainly never
16 investigated any of these allegations back
17 in 1988; did you?

18 A No.

19 Q Four hours, four-and-a-half
20 hours after you arrived at the scene you, in
21 your view, solved this case by the ruse
22 phone call that you made to Marty Tankleff?

23 A Well, that prompted him.

24 Q And ever since then, no matter
25 what the evidence is, no matter what took

1 K. James McCready 219

2 place, your view is that Marty did this?

3 A Yes.

4 MR. DUNNE: I'll object to the
5 form of the question. Obviously the
6 answer stands.

7 Q Didn't Marty tell you that
8 there was people that could corroborate the
9 business troubles between Tankleff and
10 Steuerman?

11 A There were people that could
12 corroborate?

13 Q Yeah.

14 A Steuerman told us all about it.
15 He wasn't hiding it.

16 Q How about Julie Mutchuler
17 (phonetic), do you know her?

18 A I think she works at the store.

19 Q Right. That was a name that
20 Marty gave you that morning to say speak to
21 Julie. She knows how bitter the fights are.
22 Did you ever talk to her about the fights?

23 A No.

24 Q Didn't Marty's father's maid
25 tell you all that there was a screaming

K. James McCready

220

match on the phone between Steuerman and Tankleff the day of the murder, September 6th? When I say tell you, I mean tell the police.

A I don't recall that. Is it possible, yes.

Q I want to talk to you a bit about the lie or lies you told to Marty.

Marty says that you told him that you conducted some kind of humidity test and that you could tell that he had taken a shower, not the night before, but that morning. Did you say that to him?

A I may have. I don't remember right now. I may have because I remember talking about the shower.

Q You tell him there was a humidity test that you took? Was that true? Was there such a humidity test?

A No.

Q Marty says that you told him that you found his hair in his mother's hand?

A No.

1 K. James McCready 221

2 Q Did you say that to him?

3 A No.

4 Q And, of course, that was not
5 true, right?

6 A No.

7 Q None of Marty's hair was in
8 Arlene's hands?

9 A No. I would never say
10 something like that. You know why?

11 Q No. Go ahead and tell me.

12 A What if the hair in her hands
13 was your hair? I would look pretty silly,
14 wouldn't I, if I tell him -- It's like
15 telling a burglar, I know you broke into the
16 place because we got your fingerprints.
17 Well, the burglar knew damn well he was
18 wearing gloves so how the hell did I get his
19 fingerprints. You never tell anybody
20 something like that.

21 Q You never tell anybody
22 something like -- You don't lie about
23 physical evidence that you have that
24 implicates them? That's not one of the lies
25 you would tell?

1 K. James McCready 222

2 MR. DUNNE: Objection to the
3 form of the question. Go ahead.

4 Q Whether or not you would tell
5 that lie, you're saying you didn't. Marty
6 says you did, you're saying you didn't?

7 A No, I didn't.

8 Q Okay. But you did make up this
9 ruse about being pumped with adrenalin and
10 so forth, right?

11 A Yes.

12 Q Now, obviously, at this point
13 in time, you're subjectively -- By this
14 point in time you subjectively believed that
15 Marty committed this murder, right?

16 A Yes.

17 Q So you're running a ruse or
18 some trickery or deceit which you think
19 you're allowed to do in order to get the
20 guilty -- in your mind this "guilty person"
21 to confess, right?

22 A Yes.

23 Q The purpose of doing this is to
24 force him to tell you that he did this?

25 A Yes.

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K. James McCready 223

Q That's why you're telling him
this lie?

A Yes.

Q And you're doing that because
you believe he was guilty and you had spent
a couple of hours with him and you hadn't
been able to get him to confess by
confronting him with other facts or things,
right?

A Yeah.

MR. DUNNE: I object to the
form of the question but the answer
stands.

Q As you were doing this, did you
consider the possibility that maybe you were
just wrong, that maybe the kid was just
scared, confused, in shock?

A No.

Q So before Marty said he did it,
you were convinced he did it?

A I was pretty damn sure he did
it at that point, yes, but we still didn't
have enough.

Q Probable cause to lock him up.

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K. James McCready 224

A Right, yeah.

Q You wanted that probable cause, you wanted that admission, you wanted that confession?

A Yes.

Q So you were trying to figure out ways to do it, right?

A Yes.

Q And the way you came up with was this ruse about his father saying that he did it?

A Yes, because he would not have known if his father came out of a coma or not.

Q Well, this is -- I don't want to say just another day at the office for you, but this is another day at work for you, right?

A Yes.

Q You've done these kinds of things before over and over again, correct?

A Yes.

MR. DUNNE: Well, I'm going to object because I don't know what

K. James McCready

225

"things" are.

Q What was the guy Schoendorf (phonetic)? Didn't you give him some kind of ruse to get him to go for it, if you will?

A I don't remember trying to use any ruse on him. What I specifically remember about Schoendorf was that he had told us that he had not come home that day so he couldn't possibly have done it.

But being a carpenter, on a kitchen table was a ruler, a tape, you know, tape ruler, you know, and it was still in the package and it was purchased at -- ironically, I named my company after this -- Nassau Suffolk Lumbar over in Smithtown, so I managed to go over to Smithtown and found out that -- I believe they got a copy of the receipt and I'm not sure if that had the time on it or not. I don't remember all of that. But how did the ruler get in the house if he didn't come home? You understand where I'm getting at?

Q Did you say something to him

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K. James McCready 226

about finding firearm? Was his wife shot?

A FDR?

Q Yes.

A His wife was shot, yes.

Q Did you tell him you found
residue on his arms?

A I don't remember.

Q Okay. And in any event, as
you're questioning Marty, this is not your
first rodeo so to speak, right?

A Right.

Q You've questioned suspects
before?

A Yes.

Q You know what you're doing.
You're trying to extract a confession from
the kid. You think he did it and you're
doing what you have to do to get the
confession, right?

A Yes.

Q How was he supposed to react?
Let's just assume for a second that he was
innocent.

MR. DUNNE: I'm going to object

1 K. James McCready 227

2 to the form of the question but go
3 ahead.

4 Q How would an innocent person
5 react to this?

6 A As I said in court, if I were
7 him -- Ronnie Rother was crying.

8 Q No, no, no.

9 A Wait a minute. Let me finish
10 my answer.

11 Q I don't mean the crying.

12 MR. DUNNE: Let him finish.

13 Q How would react to his lie
14 about his father, that's my question.

15 A How did he --

16 Q How would an innocent person --
17 Assume for a second that Marty is innocent.
18 Not how he would act, his demeanor or
19 crying. How would he react to the lie?

20 A If that were me sitting there
21 and being accused of something I didn't do,
22 I'd be all over whoever was asking me the
23 questions or whatever screaming, yelling and
24 ranting and raving saying, I didn't do it
25 and no way. I mean --

K. James McCready

228

Q Well, let's back up for a second and take it one step at a time and see if we can look at it from a teenager's point of view who's found both his parents in the house; one dead, brutally, and the other brutally attacked and dieing. You know that Marty was never in a precinct before under those circumstances, right?

A I don't know. I guess not. I don't know.

Q You would know if he had been, right?

A Well, he had prior arrest or something?

Q Right.

A Sure.

Q He had none of that, right?

A No.

Q This for you is work. You do it all the time. This is a squad room that you live and breathe in every day, right?

A Yes.

Q So you have a teenage boy. His parents have been found the way they have

K. James McCready

229

1
2 been found. You're questioning him for
3 several hours now, right? The questioning
4 started around 8:30 at the scene and
5 continued now until 11:45, 11:50 at the
6 precinct, right?

7 A Yes.

8 Q You confronted him with what
9 you think are inconsistencies; something
10 about the shower, blood on his shoulder,
11 things like that, right?

12 A Yes.

13 Q And then you step out and you
14 make this fake phone call and you come back
15 and you tell him, in essence, we got you
16 now. Your father says you did it, pumped
17 him full of adrenalin, he said you're the
18 one who attached him, yes?

19 A Yes.

20 Q Assume for the time being that
21 he believes you, right. That it never
22 occurs to him that you would be lying about
23 such a thing and that, of course, it would
24 never occur to him that his father would be
25 lying about that. And just for the time

K. James McCready

230

being, just for now, assume he's innocent.

How would an innocent person react to that?

MR. DUNNE: I'm going to object

on numerous grounds on that but go

ahead and answer as best you can.

Certainly the form is improper.

A I wouldn't care what you said
to me. If I didn't do it, I didn't do it.

Q Did you think about the
possibility that what you were doing is
making Marty doubt his own reality?

A No.

Q But when you tell him that his
father said he did it --

A Right.

Q -- and if he did, how would he
put that together with the fact that he has
no memory of it?

MR. DUNNE: On numerous grounds
that's an improper question but for
the purpose of now try and answer
that as best you can. I'll pr serve
that for later.

A If I didn't do a crime such

K. James McCready

231

as --

Q Not you. Seventeen-year-old boy --

MR. DUNNE: Bruce, Bruce, let him finish his answer.

A Seventeen-year-old boy, my ass. I was in the United States Army when I was 17 years old so --

Q Life is different for you.

A I don't like describing him as a little teenage boy.

Q But wasn't he? Wasn't he a teenage boy?

A Yes.

Q He was starting his first day of high school. He wasn't in the Marines. He was a spoiled kid who lives on the north shore of Long Island?

A First day of his senior year.

Q Right.

A Yeah.

Q His activity wasn't in the Marines. He's was boating, going on his ATV and hanging out with his friends. He finds

1 K. James McCready 232
2 his parents that way and then he's in the
3 homicide squad. How does that person react?

4 MR. DUNNE: I'm objecting.

5 Wait. Jimmy, hold on a second. Let
6 me make the record.

7 I'm objecting on numerous
8 grounds to the propriety of that
9 question. It is Federal deposition.
10 Go ahead, Jimmy, you can answer.

11 Q How does he react? He just
12 continues to deny it? Calls you a liar?
13 Calls his dad a liar?

14 A Yes.

15 Q You don't think that it's even
16 possible that it would -- that kind of
17 information given to an innocent boy in that
18 circumstance would make him doubt his own
19 memory?

20 A No.

21 Q You don't think that it's even
22 possible that him saying or you suggesting,
23 whichever way it was, could I have done it
24 and blacked out was him trying to reconcile
25 two irreconcilable facts, that he had no

1 K. James McCready 233

2 memory of committing this crime and that
3 you're telling him his father said he did
4 it?

5 MR. DUNNE: Again, I'm
6 objecting to the form of the
7 question for the same reasons as
8 previously stated.

9 Q That never occurred to you when
10 you asked the question?

11 A I believe now, okay, that he
12 was using steroids. I think they were
13 affecting him. I believe that now, I didn't
14 know that then.

15 MR. BARKET: Okay. We'll pick
16 up the steroids after.

17 THE VIDEOGRAPHER: Going off
18 record at 4:18 p.m.

19 (At this time, a brief recess
20 was taken.)

21 THE VIDEOGRAPHER: Beginning of
22 Tape 5. We're back on record at
23 4:32 p.m. You may proceed.

24 CONTINUED EXAMINATION BY

25 MR. BARKET:

K. James McCready

234

Q I think we were cut off because of the tape. Just maybe the court reporter could read back the last question, which is lengthy, as I recall, and then the beginning of the answer.

(Whereupon, the requested portion was read back by the court reporter.)

MR. DUNNE: We'll take that up when we come back.

MR. BARKET: Okay. We'll take that up when we come back.

Q Before we get to the steroids, I kind of want to go back to the question that I asked which is, it didn't occur to you in telling that kind of lie that you might cause someone to doubt their own memory?

A No.

Q Now, in point of fact, Marty's initial response to this was to try and explain it, right? To say, well, my father may be saying that because I was the last person to treat him before the police got

K. James McCready

235

there, right?

A Yes.

Q And then, I think it was Rein who suggested to him, no, that he was unconscious, that couldn't have happened, something along those lines?

A I don't remember Norm saying anything like that about being unconscious. I remember --

Q You continued to press the point though, right?

A Right.

Q And then he offered to take a polygraph, right?

A What's that?

Q Then he offered to take a polygraph?

A I don't know what point in time he offered to do that.

Q Didn't he offer --

A I forget what point in time it is. Maybe I can find it here.

Q That's actually worth looking at for a second. Let's go to your

1 K. James McCready 236

2 supplemental report which I think is -- you
3 just have to give the number.

4 A Fifty-nine.

5 Q Fifty-nine. Looking at Page 10
6 of 14, bottom paragraph where you write, he
7 said he would take a lie detector test. We
8 then asked --

9 A Wait a minute. Where is it?

10 Q I don't want to rush you.

11 MR. DUNNE: Point it out to
12 him.

13 MR. BARKET: I did. I thought
14 I was doing that.

15 Q One Page 10 about 10 lines up
16 from the bottom.

17 A Ten lines up from the bottom.

18 MR. DUNNE: Or nine.

19 A Due to the fact that he was
20 given adrenalin and then once out of his
21 comatose state he said that he, Marty, had
22 stabbed him.

23 Yes, I see it. He said he
24 would take a lie detector test. That's when
25 he said it, yes.

K. James McCready

237

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Q Did you give him one?

A No.

Q Did you have the facility to give him a lie detector or polygraph?

A Yes.

Q You chose not to?

A Yes.

Q Again, this was a room in the context in which you ran the show, right?

A Yes.

Q Nobody was in that room unless you said they could go in there?

A Pretty much. Well, if the sergeant wanted to come in he could come in.

Q He would come in. And point in fact, if he wanted to come in he could, but the sergeant was going to leave it to your discretion as to what to do in that room, right?

A Yes.

Q There was -- And once you tell him this lie Marty's first reaction is what I said before is that his father may have been saying that because he was the last

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K. James McCready

238

2

person to treat his dad before the police

3

arrived, right?

4

A Yes.

5

Q And then he said he would take

6

a lie detector, correct?

7

A Yes.

8

Q So he's still, even in the face

9

of this lie, even in the face of the fact

10

that you're telling him his father has named

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him as the "murderer" or "attacker," he's

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still saying he didn't do it in trying to

13

reconcile what his father said with what his

14

memory is?

15

MR. DUNNE: No, I'm objecting

16

to the form of that but go ahead.

17

A Well, you know -- What's the

18

word I'm looking for? He's still at that

19

point, I guess, in a state of denial.

20

Q But -- Sorry, finish your

21

answer.

22

A Because the next thing he says

23

we asked him, you know, what should we do to

24

the person that did this and he said they

25

needed -- they needed to have psychiatric

K. James McCready

239

1
2 help. We asked him if he needed psychiatric
3 help. He then asked if he could have
4 blacked out and done it. We asked him what
5 he thought, he said maybe it was not him but
6 another Marty Tankleff.

7 That's what I'm getting at
8 about the steroids. That's what I'm saying.
9 I don't think that's necessarily incorrect
10 what he said there because it probably
11 wasn't his normal Marty Tankleff, but if
12 he's suffering from roid rage I think that's
13 a very distinct possibility.

14 Q There's a couple of things I
15 want to talk to you about and the roid rage
16 is part of it, but the first thing is you
17 say that he's still in a state of denial.
18 That's an opinion that you're offering at
19 that time, right?

20 A Yes.

21 Q It could just be that he's
22 saying that he didn't do it because he
23 actually didn't do it?

24 MR. DUNNE: Objection to the
25 form but go ahead.

1 K. James McCready 240

2 A I think he's just trying to --

3 Q Right, but that's a value
4 judgement you're making. It's an
5 assessment. It's an opinion. It's not
6 fact, right?

7 A Right.

8 Q So when you say that he's still
9 in a state of denial that tells us a lot of
10 what you think at the time, right?

11 A Yes.

12 Q You think he's guilty of
13 murder?

14 A Yes.

15 Q He hasn't said it to you yet.
16 He hasn't admitted anything to you yet, but
17 you think that's what happened here, right?

18 A Yes.

19 Q You have not gotten any
20 forensics back yet, you haven't spoken to
21 any witnesses hardly at all. The entire
22 time this investigation has been going on
23 the only person you've spoken to is Marty
24 and you're convinced at 11:50 or 11:45 that
25 morning that Marty did this, right?

1 K. James McCready 241

2 A Yes.

3 Q And you're doing what you have
4 to do to get him to say he did it?

5 A I'm trying to, yes.

6 Q Now, you didn't give him a lie
7 detector test, right?

8 A No.

9 Q You then offered up this
10 suggestion that Marty was on steroids. I
11 mean you just did it now so I want to talk
12 about that a little bit, not that you did it
13 to Marty at the time. And Detective Rein
14 did this too.

15 We all are professionals,
16 right? You're a police officer, I'm a
17 lawyer. We don't just say things, right?

18 A Right.

19 Q We don't just make accusations
20 and conclusions. There needs to be evidence
21 to support it, right?

22 A Right.

23 Q Where did the evidence come
24 from that Marty was on steroids?

25 A I didn't think we had any but

K. James McCready

242

what we did know --

Q Now. Where does it come from now?

A Well, we know that he was stealing steroids from the gym over there.

Q No, we don't; do we?

A I know he was ordering them, and I know --

Q Well, who told you he was ordering them?

A I think it was Dan Hayes.

Q Is that the same person who said that you were collecting money from Steuerman and is still on the take with the mob; that Dan Hayes?

A Yes.

Q Well, I don't want to compare the two but are we going to believe the steroids and disbelieve the cop on the take or maybe Dan Hayes is just not a reliable reporter of the facts?

MR. DUNNE: I'm objecting again on numerous grounds. Go ahead.

Q That's the information you

1 K. James McCready 243
2 have? How would you feel if we all went
3 around and said, you're on take with the
4 Lucchese crime family because Dan Hayes said
5 so?

6 MR. DUNNE: Again, objection.
7 Bruce, that's not a question that's
8 going to --

9 MR. BARKET: Sorry. Sorry.
10 I'll withdraw it.

11 Q The fact that Dan Hayes said
12 something doesn't make it so; does it?

13 A No, it doesn't make it so.

14 Q And he's told just flagrant
15 lies about you, correct?

16 A Yes, he has.

17 Q Okay. So the fact that --

18 A But he also told us that he
19 discussed the steroids with Seymour.

20 Q Well, unfortunately, Seymour is
21 not around to ask that.

22 A I realize that.

23 Q Anybody can say they discussed
24 anything with Seymour and we'll never know
25 if that's true or not.

1 K. James McCready 244

2 So there's no blood test that
3 indicates that he had steroids on him,
4 right?

5 A No.

6 Q And point of fact, what Dan
7 Hayes says is not that Marty was stealing
8 steroids, it's that he caught Marty ordering
9 supplements and that they never made their
10 way to Marty, right?

11 A I don't remember right off the
12 top.

13 Q Well, you're the one who's kind
14 of making this accusation based on what
15 Hayes tells you.

16 MR. DUNNE: Objection to the
17 colloquy there. Go ahead.

18 Q Isn't it true that what Hayes
19 reports is he caught Marty ordering
20 supplements, not steroids, took them from
21 him before he ever got them and the kid
22 never got the steroids or supplements,
23 sorry. Thank you.

24 A I don't know that he got them
25 or he didn't get them.

1 K. James McCready 245

2 Q But then why would you offer up
3 this blatant --

4 A Because --

5 Q Why would you offer up and
6 Detective Rein that Marty was on steroids
7 when the only evidence of it is something
8 that Hayes said 20 years ago when Hayes is
9 the same person calling you a dirty cop?

10 MR. DUNNE: Objection to the
11 form of the question. Go ahead.

12 A Because Marty, what I'm saying
13 to you today, okay, is that that is -- I
14 think that's very important in terms of --
15 actually, it would be in terms of his
16 defense that he had been using steroids.

17 Q Speaking as someone who
18 occasionally engages in criminal defense
19 work, I'll ask if maybe it's better to let
20 the defense attorneys do the defense
21 attorney stuff because steroid defense is
22 not a good one for Marty because he never
23 took them, there's no blood work. He's
24 saying he didn't do it.

25 MR. BARKET: My objection to

K. James McCready

246

the recent exchange there but the record should be clear to what I'm objecting to.

Q I'm asking you questions about this. You're saying you thought he was on steroids and the only evidence that you have of that, the only evidence in the planet is something that Hayes told some police officer 24 years ago; is that right?

A Yes.

Q There is no blood test, there is no other witnesses, no other corroboration. It's the flagrant mere allegations from Hayes, right?

A Yes.

Q And the allegation isn't even that he gave Marty steroids, saw Marty taking them, it's that he found Marty ordering some kind of supplement that he took from Marty before he got them.

MR. DUNNE: Objection. I don't know that you've established that that's his perspective.

Q Is that your memory of it?

1 K. James McCready 247

2 A Yes.

3 Q Yes?

4 A Yes.

5 Q Okay. So can we kind of put to
6 bed the steroids?

7 MR. DUNNE: No. Objection to
8 the form of that. Come on, Bruce,
9 you know better.

10 Q Now, I want to talk to you a
11 little bit about the small talk, if you
12 will, that you all engaged in. I think it
13 kind of starts around Page 6, if you will,
14 of your supplemental report. I don't know
15 if there is a specific line?

16 A Yeah. Yes.

17 Q Actually, it's the second full
18 paragraph.

19 A Yes.

20 Q Excuse me. The interview of
21 Martin Tankleff began with small talk
22 between Martin and myself and Detective
23 Rein.

24 You talked about the surgery,
25 right?

1 K. James McCready 248

2 A Yes.

3 Q You asked him about high school
4 and girls, correct?

5 A Yes.

6 Q And you also asked him about
7 cars, correct?

8 A About what?

9 Q His car, what kind of car he
10 drives?

11 A Yes.

12 Q And he told you about the car?

13 A Yes.

14 Q Now, in the course of
15 discussing with him girls and high school,
16 did you talk to him at all about sports?

17 A No, not that I recall. There
18 was something about --

19 Q I'm talking now just about this
20 phase of small talk that you were discussing
21 with him. You talked about his family. You
22 learned that he was adopted then, right?

23 A Right.

24 Q You talked about going to
25 college?

K. James McCready

249

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A Yes.

Q Talked about his ATV and his boat?

A Yes.

Q Yes?

A Yes.

Q And if -- I mean am I right that Marty in the course of this small talk is telling you that obviously he lives where he lives, right, which is a very exclusive residence?

A He what?

Q He lives where he lives, very exclusive residence?

A Yeah.

Q Not only in Belle Terre but kind of "the" spot in Belle Terre where you have this house overlooking the sound and Connecticut and so forth, right?

A Yes.

Q Not oceanfront but sound front right?

A Yes.

Q He has a Lincoln that's his,

K. James McCready

250

right?

A Yes.

Q He has a boat that he has access to, right?

A Well, that was a bone of contention with him and his father about the boat.

Q We'll talk about the contentious part of it, but he has a boat that he has access to, whether it's limited or not, he has a boat. An ATV he has access to?

A I believe so.

Q That's not such a bad life; is it?

A No.

Q He told you about how his parents met, yes?

A Yes.

Q Said that there was an affair?

A Yes.

Q He talked about their relationship with each other and with him?

A Yes.

1 K. James McCready 251

2 Q Now, at some point, you begin
3 to ask him questions about what happened
4 that day, right?

5 A Yes.

6 Q And he tells you that he
7 showered the night before, correct?

8 A Yes.

9 Q And he tells you that he used
10 two towels after the shower; is that right?

11 A I believe so.

12 Q And he tells you that he used
13 one for his head and one he put around his
14 waist when he got out of the shower; is
15 that right?

16 A Yes.

17 Q When you went into his room and
18 you looked around, did you see towels?

19 A I don't recall. I don't know
20 if I have it here. I think I wrote down --
21 It may be in my notes.

22 No, I don't have any notes on
23 that.

24 Q Let's just see if we can
25 refresh your memory a bit.

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K. James McCready 252

MR. BARKET: Can I have these
two pictures marked, please.

(Whereupon, Plaintiff's
Exhibits 88 through 90 were marked
for identification.)

Q Can you take a look at what's
been marked as Plaintiff's Exhibit 88
through 90, and I guess if you start with 90
I'll see if that refreshes your memory of
that being Marty's bed and bedroom and the
towels on it?

A Yeah. Yes.

Q Okay. So he told you that
there was two -- and so Marty told you that
he had two towels from the night before and,
in fact, there were two towels found in his
room where he said they were, right?

A Yes.

Q Okay. And when you were in
Marty's room, you looked around; didn't you?

A Yes.

Q And by the time you were doing
the second walk-thru, you knew that the
parents had been brutally attacked, right?

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K. James McCready 253

A Yes.

Q You knew that there was a knife wound on the mother at least, right?

A Yes.

Q And you knew that -- Did you know that the father had been bludgeoned at that point in time?

A No.

Q Did you know that the mother had been bludgeoned?

A No, I didn't know she was bludgeoned at that point in time.

Q You didn't see the bruises on the side on her head and her ear almost chopped off?

A No. I didn't see any wounds to the back of her head.

Q I know that you all said the back, but we'll go through the autopsy in a little bit, maybe tomorrow.

Do you know that the wounds in her head were on the top of her head, on the front of her head, and I believe the left side of hear head and that one of them

1 K. James McCready 254

2 actually almost literally took off a piece
3 of her ear it was such a severe hit?

4 A No, I don't recall that.

5 Q You don't recall that?

6 A No.

7 Q You all think it was the back
8 of the head that she was hit on only.
9 Right?

10 A What's that?

11 Q You all think she was hit in
12 the back of head?

13 A No.

14 MR. DUNNE: Objection to form
15 but go ahead.

16 A I don't know. I looked at her
17 but I don't touch the bodies. I just looked
18 at her, but I don't recall exactly. You
19 know, I remember the biggest thing I
20 remember is a big gash on her. It looked
21 like, you know, like a big long gash.

22 MR. BARKET: Let's do this.

23 Mark this as 91.

24 (Whereupon, Plaintiff's Exhibit

25 91 was marked for identification.)

1 K. James McCready 255

2 MR. BARKET: This is 92. This
3 is 93 and this is 94.

4 (Whereupon, Plaintiff's
5 Exhibits 92 through 94 were marked
6 for identification.)

7 Q I want to show -- You recognize
8 these photographs, right?

9 A Yeah.

10 Q Sure. You recall actually
11 seeing them and you recall the pictures
12 themselves, right?

13 A Yeah.

14 Q You were at this scene?

15 A Yeah, but I wasn't there when
16 these pictures were taken.

17 Q But you observed what the
18 pictures depict and you looked at these
19 pictures before.

20 Now, at the time that you were
21 there, no one prevented you from looking at
22 the left side of her head; did they?

23 A No, but I didn't --

24 Q No one prevented you from
25 seeing the portion of her ear that was

1 K. James McCready 256

2 smashed off, right?

3 A Nobody prevented me from seeing
4 anything but --

5 MR. DUNNE: Let him finish.

6 A These photos are taken with
7 flash and everything else. I, mean, you
8 know, I could see but it wasn't as clear as
9 these photographs are.

10 Q I thought it was bright light,
11 perfectly light, TV set --

12 MR. DUNNE: No, Bruce, he
13 qualified it with the flash.

14 A You could see her clearly but I
15 couldn't see the detail of her injuries in
16 terms of -- and besides, I thought there was
17 another photo where -- I don't know where
18 that picture is. I remember a big gash.

19 Q Well, you would agree with me
20 in looking at it -- and we're looking now at
21 93 -- the most obvious injury there is to
22 the left side of her head. It has blood and
23 it's obviously --

24 A Yeah, but --

25 MR. DUNNE: I'm objecting to

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K. James McCready 257

the form. That's your
characterization of what you're
looking at in the picture.

Q I'm asking if you would agree
with me about the characterization. You're
not saying to me that you're looking at
these pictures --

A I'm not sure what I'm seeing
here because --

Q You don't think that's
obviously injuries to the left side of her
head?

A Oh, I see this here
(indicating), but I can't see what was
actually over there (indicating).

Q You can't see it in the
photograph because you can't bend around.
It's not three dimensional but at the time
you were able to look at her, right?

A Yes, but I don't recall seeing
it.

Q You don't recall seeing that
her head was smashed in on the left side?

A No.

K. James McCready

258

Q I mean Rein, I think, said the same thing. I don't know if he observed it or not but you're there and you're telling us, really, that you didn't know that she was bludgeoned in the head after looking at her in person?

MR. DUNNE: I think he asked and answered that.

Q Is that what you're saying?

A I didn't notice.

Q Maybe you just -- Did you forget what it was and now that you're looking at the pictures you remember that she actually had her head smashed in?

A No. I didn't notice. I didn't make note of it at the time and I don't --

Q Whether you made note --

A From what I saw, I only thought that she was stabbed, cut, whatever.

Q Well, whether you made note of it or not, the information; i.e., literally, the victim was available to you to see, correct?

A At what?

1 K. James McCready 259

2 Q The time that you were in the
3 room this information, the facts about her
4 head being hit on the left side, that was
5 available to you. You could have seen it
6 whether you say you did or didn't see it?

7 A I didn't see it.

8 MR. DUNNE: Objection to the
9 form and he's answered the question
10 four times now.

11 MR. BARKET: He's saying he
12 didn't see it.

13 MR. DUNNE: Right.

14 A I just remember the slashes or
15 whatever. I didn't know exactly what -- And
16 as I said, I don't go touching, moving
17 bodies. We don't do that.

18 Q Neither does a photographer,
19 right?

20 A Right, but I didn't know about
21 any head injuries.

22 Q Well, I've heard your testimony
23 and I heard Rein's testimony in that and
24 I've read Sergeant Doyle's testimony that
25 he --

1 K. James McCready 260

2 MR. DUNNE: Do we have a
3 question?

4 Q -- is not sure. What I'm
5 asking you is that nothing prevented you
6 from observing the injuries that are clearly
7 depicted in these photographs, right?

8 MR. DUNNE: And he already
9 answered that.

10 A I didn't see it. What am I
11 going to tell you? I didn't notice. I
12 didn't realize that there was blunt force or
13 however you want to phrase it injuries.

14 Q In the bedroom, when you looked
15 around -- I want to show you the photographs
16 of the bedroom. What do you recall from the
17 bedroom? The bed, yes?

18 A Yeah.

19 Q The --

20 A Oh, that obviously there was an
21 obvious struggle in there.

22 Q No, no, no, I'm talking about
23 Marty's bedroom.

24 A Yeah, I don't --

25 Q Well, you actually -- Let me go

1 K. James McCready 261

2 back to the obvious struggle. Obvious
3 struggle between whom and where?

4 A In this room, in the master
5 bedroom.

6 Q Between Arlene Tankleff and her
7 attacker or attackers?

8 A Yes.

9 Q And as it turns out she had
10 some defensive wounds on her arms, correct?

11 A Yes.

12 Q And her knuckles were bruised
13 as well, right?

14 A I believe so.

15 Q She was, I think, 5'10,
16 191 pounds; is that what the autopsy said?

17 A I'll have to take your word for
18 it. I don't know.

19 MR. DUNNE: Bruce, you have a
20 breaking point at some point? I'm
21 getting close. If you're going to
22 go into the autopsy that's probably
23 going to be lengthy, right?

24 MR. BARKET: That's okay. Let
25 me wrap this up.

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K. James McCready 262

Q Actually, 5'6, 191 pounds?

A Okay.

Q Marty didn't have a single scratch on him; did he?

A Not that I'm aware of, no.

Q You actually examined him?

A Right.

Q And had pictures taken of him, right?

A Yes.

MR. BARKET: And could I have these two marked, please.

(Whereupon, Plaintiff's Exhibits 95 and 96 were marked for identification.)

Q I want to show you these two pictures. This is Marty at the headquarters after you all interrogated him, right?

A Yes.

Q Looking at his face there, would it be fair to say that that's kind of a quintessential "deer in the headlights" look?

MR. DUNNE: Objection to the

K. James McCready

263

form of that question.

Q Look at Marty's face.

A Which one? Which picture?

This one (indicating)?

Q Yeah.

A What about him?

Q Does he look stunned or shocked to you there?

A Yes.

Q How about the other pictures, does he looked stunned or shocked?

A Well, it seem to me he always looked like that.

Q That's the way you observed him at the time when you pulled up?

A What's that?

Q That's the way you observed him at 8:30 in the morning when you pulled up, that same blank expression?

A He had the same blank expression on his face at the trial. It didn't change. I mean he's still got it right now.

MR. BARKET: Okay. Thanks.

K. James McCready

264

We're good.

THE VIDEOGRAPHER: We're off
record at 5:05 p.m.

(Time noted: 5:05 p.m.)

K. JAMES McCREADY

Subscribed and sworn to before me
this ____ day of _____, 2013.

NOTARY PUBLIC

INDEX

INDEX TO TESTIMONY

	<u>Page</u>
Examination by Mr. Barket	5

EXHIBITS

<u>Plaintiff's</u>	<u>Description</u>	<u>Page</u>
Exhibit 79	Notes	39
Exhibit 80	Photograph	103
Exhibit 81	Photograph	103
Exhibit 82	Photograph	114
Exhibit 83	Photograph	115
Exhibit 84	Crayne Testimony	120
Exhibits 85-86	Photographs	133
Exhibit 87	Videotape	188
Exhibits 88-90	Photographs	252
Exhibit 91	Photograph	254
Exhibits 92-94	Photographs	255
Exhibits 95-96	Photographs	262

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Martin Tankleff vs

The County of Suffolk

Deposition Date: December 11, 2012

Witness: K. James McCready

CORRECTIONS

PG	LN	NOW READS	SHOULD READ	REASON FOR
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Signature

Subscribed and sworn to before me
this _____ day of _____, 2013.

(NOTARY PUBLIC)

CERTIFICATION

I, DOLLY FEVOLA, a Notary Public in
and for the State of New York, do hereby certify:

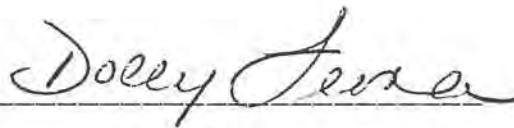
THAT the witness whose testimony is herein
before set forth, was duly sworn by me; and

THAT the within transcript is a true record
of the testimony given by said witness.

I further certify that I am not related,
either by blood or marriage, to any of the parties
to this action; and

THAT I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of January, 2013.

A handwritten signature in cursive script, reading "Dolly Fevola", written over a horizontal line.

DOLLY FEVOLA

#	16 [1] - 120:13 17 [2] - 12:21, 231:9 17-year-old [1] - 157:21 17th [1] - 267:15 18 [3] - 11:17, 12:7, 120:12 1854 [3] - 13:10, 13:13, 13:17 188 [1] - 265:17 19 [2] - 62:3, 66:2 191 [2] - 261:16, 262:2 1948 [1] - 186:10 1957 [2] - 14:3, 14:4 1963 [1] - 14:22 1969 [1] - 9:18 1970 [1] - 9:20 1972 [1] - 15:6 1975 [1] - 59:4 1980 [1] - 10:8 1988 [12] - 21:23, 28:2, 37:11, 37:15, 128:2, 133:11, 183:11, 186:10, 194:17, 196:10, 214:9, 218:17 1989 [2] - 62:4, 62:5 1990 [6] - 71:22, 72:4, 77:17, 189:24, 190:10, 196:10 1991 [1] - 62:6 1:15 [1] - 102:14 1:20 [1] - 183:13	3	7	151:23, 152:18, 155:17, 156:4, 156:9, 156:12, 156:22, 157:6, 158:4, 158:10, 158:13, 159:8 92 [2] - 255:2, 255:5 92-94 [1] - 265:20 93 [2] - 255:3, 256:21 94 [2] - 255:3, 255:5 95 [3] - 16:18, 17:6, 262:15 95-96 [1] - 265:21 96 [1] - 262:15 99 [1] - 2:8 9:00 [1] - 68:9 9:40 [1] - 183:13	
\$	\$10,000 [1] - 66:6 \$100 [1] - 59:21 \$100,000 [1] - 208:9 \$17,000 [1] - 54:7 \$18,000 [1] - 81:8 \$32,000 [1] - 66:9 \$50 [1] - 59:22 \$50,000 [4] - 208:14, 208:18, 208:25, 209:2 \$65,000 [1] - 66:6	3 [2] - 102:19, 180:11 30 [2] - 5:25, 123:19 300 [2] - 10:23, 11:7 31 [1] - 1:19 33 [3] - 82:6, 157:9, 157:13 332 [1] - 120:11 36 [1] - 13:22 37 [3] - 11:13, 13:22, 14:2 39 [1] - 265:10 3:05 [1] - 167:24 3:15 [1] - 168:4 3:16 [1] - 180:9	7 [1] - 133:10 79 [6] - 39:13, 39:16, 95:6, 96:15, 101:12, 265:10 7:39 [2] - 95:8, 96:24 7:45 [3] - 95:8, 96:24, 96:25 7:55 [1] - 96:25 7th [1] - 37:11	8	A
,	'72 [1] - 15:6 '73 [1] - 15:6 '88-'89 [1] - 133:20 '96 [1] - 66:7	4	8 [1] - 123:11 8/10/90 [1] - 76:10 80 [3] - 103:5, 103:7, 265:11 81 [4] - 103:21, 103:23, 104:2, 265:12 82 [3] - 113:25, 114:4, 265:13 83 [3] - 115:16, 115:18, 265:14 84 [5] - 74:24, 74:25, 120:7, 120:9, 265:15 85 [3] - 133:3, 133:5, 133:8 85-86 [1] - 265:16 86 [3] - 133:3, 133:5, 133:9 87 [3] - 188:22, 188:24, 265:17 88 [2] - 252:5, 252:8 88-90 [1] - 265:18 8:30 [2] - 229:4, 263:19	8 [1] - 123:11 8/10/90 [1] - 76:10 80 [3] - 103:5, 103:7, 265:11 81 [4] - 103:21, 103:23, 104:2, 265:12 82 [3] - 113:25, 114:4, 265:13 83 [3] - 115:16, 115:18, 265:14 84 [5] - 74:24, 74:25, 120:7, 120:9, 265:15 85 [3] - 133:3, 133:5, 133:8 85-86 [1] - 265:16 86 [3] - 133:3, 133:5, 133:9 87 [3] - 188:22, 188:24, 265:17 88 [2] - 252:5, 252:8 88-90 [1] - 265:18 8:30 [2] - 229:4, 263:19	a.m [2] - 1:15, 4:13 A1 [1] - 96:24 ability [2] - 40:10, 41:13 able [10] - 12:4, 18:10, 18:15, 18:16, 23:4, 24:5, 46:10, 65:25, 223:8, 257:20 above-mentioned [1] - 1:21 absent [1] - 31:8 absolutely [8] - 31:13, 31:17, 90:4, 112:17, 184:19, 185:24, 206:17, 207:20 abused [1] - 195:24 accept [2] - 106:24, 107:9 access [3] - 250:5, 250:11, 250:12 accident [3] - 196:2, 198:25, 199:4 accommodate [1] - 102:16 accommodations [1] - 218:5 accomplice [1] - 23:2 accomplices [1] - 22:25 according [21] - 76:25, 77:4, 94:24, 110:13, 113:16, 116:14, 116:23, 119:2, 145:21, 146:4, 146:10, 148:17, 148:23, 149:10, 149:13, 155:3, 156:12, 159:11, 176:3,
1	10 [6] - 14:21, 124:5, 174:6, 236:5, 236:15 100,000 [1] - 209:3 10013 [1] - 2:8 103 [2] - 265:11, 265:12 11 [3] - 1:14, 4:12, 266:3 114 [1] - 265:13 115 [1] - 265:14 11530 [1] - 2:5 11:29 [2] - 1:15, 4:13 11:45 [2] - 229:5, 240:24 11:50 [2] - 229:5, 240:24 12 [5] - 11:22, 69:3, 71:23, 91:14, 91:15 120 [2] - 150:23, 265:15 12:22 [1] - 57:25 12:32 [1] - 58:5 133 [1] - 265:16 14 [2] - 37:15, 236:6 14-year-old [1] - 34:4 14th [3] - 14:4, 38:25, 156:7 15 [1] - 69:4 15-30 [1] - 97:19 150 [1] - 59:22	5	8 [1] - 123:11 8/10/90 [1] - 76:10 80 [3] - 103:5, 103:7, 265:11 81 [4] - 103:21, 103:23, 104:2, 265:12 82 [3] - 113:25, 114:4, 265:13 83 [3] - 115:16, 115:18, 265:14 84 [5] - 74:24, 74:25, 120:7, 120:9, 265:15 85 [3] - 133:3, 133:5, 133:8 85-86 [1] - 265:16 86 [3] - 133:3, 133:5, 133:9 87 [3] - 188:22, 188:24, 265:17 88 [2] - 252:5, 252:8 88-90 [1] - 265:18 8:30 [2] - 229:4, 263:19	8 [1] - 123:11 8/10/90 [1] - 76:10 80 [3] - 103:5, 103:7, 265:11 81 [4] - 103:21, 103:23, 104:2, 265:12 82 [3] - 113:25, 114:4, 265:13 83 [3] - 115:16, 115:18, 265:14 84 [5] - 74:24, 74:25, 120:7, 120:9, 265:15 85 [3] - 133:3, 133:5, 133:8 85-86 [1] - 265:16 86 [3] - 133:3, 133:5, 133:9 87 [3] - 188:22, 188:24, 265:17 88 [2] - 252:5, 252:8 88-90 [1] - 265:18 8:30 [2] - 229:4, 263:19	a.m [2] - 1:15, 4:13 A1 [1] - 96:24 ability [2] - 40:10, 41:13 able [10] - 12:4, 18:10, 18:15, 18:16, 23:4, 24:5, 46:10, 65:25, 223:8, 257:20 above-mentioned [1] - 1:21 absent [1] - 31:8 absolutely [8] - 31:13, 31:17, 90:4, 112:17, 184:19, 185:24, 206:17, 207:20 abused [1] - 195:24 accept [2] - 106:24, 107:9 access [3] - 250:5, 250:11, 250:12 accident [3] - 196:2, 198:25, 199:4 accommodate [1] - 102:16 accommodations [1] - 218:5 accomplice [1] - 23:2 accomplices [1] - 22:25 according [21] - 76:25, 77:4, 94:24, 110:13, 113:16, 116:14, 116:23, 119:2, 145:21, 146:4, 146:10, 148:17, 148:23, 149:10, 149:13, 155:3, 156:12, 159:11, 176:3,
	2	6	9		
	2 [1] - 58:4 20 [2] - 123:19, 245:8 20-somewhat [1] - 153:18 20005 [1] - 2:12 2012 [3] - 1:14, 4:12, 266:3 2013 [3] - 264:12, 266:24, 267:15 24 [4] - 9:18, 9:20, 62:4, 246:10 24-year-old [1] - 34:5 250 [1] - 105:24 252 [1] - 265:18 254 [1] - 265:19 255 [1] - 265:20 25A [1] - 68:25 262 [1] - 265:21 29 [1] - 14:2 2:08 [1] - 102:19	5 [2] - 233:22, 265:6 5'10 [1] - 261:15 5'6 [1] - 262:2 59 [2] - 37:3, 37:5 5:00 [1] - 68:9 5:05 [2] - 264:4, 264:5 5:35 [1] - 148:18	9 [1] - 59:4 90 [5] - 16:18, 216:14, 252:5, 252:9 900 [1] - 2:11 91 [3] - 254:23, 254:25, 265:19 911 [34] - 79:10, 80:6, 105:9, 107:20, 108:3, 108:9, 108:11, 109:9, 109:15, 110:2, 110:10, 110:14, 135:14, 137:16, 148:18, 148:21, 149:3, 149:17, 149:20, 150:5, 151:11, 151:17,		

182:17, 199:18
account [18] - 34:25,
80:4, 122:7, 146:4,
146:10, 148:17,
149:14, 149:22,
152:10, 153:3,
153:12, 153:13,
153:15, 155:4,
158:7, 160:17,
170:25, 214:21
accuracy [1] - 121:5
accurate [3] - 38:22,
86:5, 154:5
accusation [1] -
244:14
accusations [1] -
241:19
accused [1] - 227:21
accusing [3] - 197:4,
197:6, 197:9
acquiring [1] - 152:11
act [3] - 107:18, 180:9,
227:18
action [2] - 162:10,
267:11
actions [1] - 92:22
activity [2] - 112:7,
231:23
add [6] - 201:20,
203:6, 203:15,
205:19, 205:24,
206:5
adding [1] - 206:8
addition [2] - 199:10,
201:11
address [3] - 5:24,
70:7, 70:17
adds [1] - 201:22
admissible [2] -
184:12
admission [3] - 105:5,
203:8, 224:4
admissions [3] -
16:20, 199:17,
203:16
admit [1] - 41:20
admitted [4] - 200:6,
201:18, 207:23,
240:16
adopted [2] - 80:17,
248:22
adrenalin [3] - 222:9,
229:17, 236:20
adult [1] - 35:13
adults [1] - 36:6
adversary [1] - 13:4
affair [1] - 250:21
affecting [1] - 233:13
affidavit [1] - 212:23
affluent [1] - 73:19
afterwards [2] - 81:17,
176:15
age [2] - 13:25, 34:9
ago [8] - 14:17, 44:3,
61:20, 61:22,
153:18, 191:17,
245:8, 246:10
agree [22] - 21:17,
23:20, 25:6, 31:24,
33:8, 33:18, 33:22,
34:17, 34:23, 38:22,
90:17, 91:24, 92:11,
107:5, 107:17,
108:16, 112:12,
123:15, 124:25,
125:7, 256:19, 257:5
agreed [2] - 134:20,
189:11
AGREED [3] - 3:3, 3:8,
3:12
agrees [1] - 38:21
ah-ha [1] - 158:9
ahead [39] - 32:8,
32:11, 48:8, 57:9,
79:15, 81:21, 83:15,
86:25, 87:13, 88:19,
90:3, 110:15,
145:24, 148:7,
150:18, 153:7,
163:13, 175:5,
185:6, 187:4,
187:16, 203:2,
203:12, 203:25,
204:11, 206:16,
207:9, 217:2,
221:11, 222:3,
227:3, 230:6,
232:10, 238:16,
239:25, 242:24,
244:17, 245:11,
254:15
aid [22] - 105:6,
107:25, 108:9,
108:16, 108:20,
108:25, 110:16,
110:18, 111:15,
111:17, 111:20,
111:22, 112:3,
112:8, 112:11,
121:18, 121:22,
137:17, 140:3,
140:14, 141:22,
144:5
aides [1] - 8:21
ain't [1] - 216:15
alcohol [1] - 199:7
alibi [2] - 180:12,
180:18
alibis [1] - 207:5
alive [2] - 148:21,
216:21
allegation [1] - 246:17
allegations [3] -
192:3, 218:16,
246:15
allowed [3] - 173:10,
217:15, 222:19
almost [9] - 44:6,
74:19, 74:20, 74:21,
75:17, 77:7, 164:8,
253:15, 254:2
alright [6] - 93:16,
182:19, 204:17,
204:19, 215:10,
217:4
ALSO [1] - 2:17
ambulance [1] -
149:21
amount [1] - 145:13
AMY [1] - 2:6
analysis [1] - 164:4
AND [3] - 3:3, 3:8,
3:12
answer [34] - 27:8,
27:12, 32:8, 32:11,
33:15, 45:12, 59:14,
79:15, 86:25,
120:15, 145:25,
160:25, 161:2,
161:20, 165:16,
172:4, 185:7, 187:4,
193:20, 195:12,
206:16, 209:11,
210:18, 215:4,
217:13, 219:6,
223:13, 227:10,
230:6, 230:22,
231:6, 232:10,
234:6, 238:21
answered [3] - 258:9,
259:9, 260:9
answering [2] - 79:6,
181:25
answers [1] - 84:2
anticipate [1] - 33:12
anticorruption [1] -
9:24
antique [1] - 51:2
antsy [1] - 52:20
anyway [8] - 48:4,
60:20, 61:13, 93:13,
148:21, 190:9,
194:4, 205:11
appear [2] - 40:4,
78:24
appearance [1] -
214:19
applicable [1] - 34:3
apply [1] - 157:24
appointed [3] - 9:19,
9:21, 14:3
apprehended [1] -
12:3
approached [1] -
115:24
appropriate [4] -
35:21, 81:18, 83:10,
218:4
April [1] - 9:20
apt [1] - 34:4
area [2] - 68:2, 101:15
areas [1] - 58:9
argue [1] - 124:8
argument [3] - 59:23,
59:24, 182:23
arises [1] - 126:2
Arlene [6] - 122:16,
122:23, 129:11,
129:23, 163:2, 261:6
Arlene's [3] - 122:22,
125:2, 221:8
arm [1] - 116:2
arms [3] - 116:11,
226:7, 261:10
Amy [1] - 231:8
arrest [5] - 47:15,
47:16, 62:5, 91:7,
228:14
arrested [14] - 47:10,
47:12, 47:13, 47:14,
47:17, 53:22, 86:15,
89:24, 90:8, 90:25,
92:2, 194:8, 195:19,
200:20
arrests [4] - 20:11,
46:21, 46:23, 46:24
arrival [1] - 109:15
arrive [3] - 45:2,
74:10, 165:25
arrived [9] - 75:17,
77:22, 79:23,
109:11, 110:3,
118:22, 131:24,
218:20, 238:3
arrives [2] - 168:15,
172:8
arson [2] - 14:25,
195:16
art [1] - 18:9
Arthur [1] - 198:22
Article [1] - 1:19
aside [3] - 40:5, 86:8,
184:23
aspects [1] - 93:11
ass [2] - 60:25, 231:7
assault [4] - 30:6,
54:6, 55:15, 55:16
asserting [1] - 124:9
assessing [1] - 34:25
assessment [1] -
240:5
assigned [3] - 69:7,
69:12, 195:14
assignment [1] - 68:3
assignments [1] -
67:12
assistant [3] - 183:6,
212:9, 212:15
associate [1] - 4:18
Associates [2] -
63:15, 191:6
Association [3] -
29:21, 48:24, 58:19
Assume [1] - 227:17
assume [4] - 6:11,
226:23, 229:20,
230:2
assumed [1] - 214:20
assuming [6] - 7:20,
46:21, 89:3, 135:2,
150:4, 205:9
assumptions [1] -
97:15
asterisk [1] - 157:5
attached [1] - 229:18
attack [3] - 98:9,
107:23, 166:23
attacked [9] - 148:19,
150:13, 160:22,
165:20, 172:9,
205:17, 228:7,
252:25
attacker [2] - 238:11,
261:7
attackers [1] - 261:7
attacking [1] - 107:4
attacks [1] - 107:2
attendant [1] - 52:6
attention [2] - 9:3,
35:24
attorney [10] - 12:2,
17:16, 29:11,
142:24, 166:4,
183:6, 183:7,
212:15, 218:4,
245:21
attorney's [1] - 54:24
Attorneys [4] - 2:4,
2:7, 2:11, 2:14
attorneys [2] - 27:23,
245:20
ATV [3] - 231:24,
249:3, 250:12
aunts [1] - 80:21
auto [1] - 184:15
automatically [2] -
33:6, 135:8
autopsy [3] - 253:20,
261:16, 261:22
available [2] - 258:23,

259:5
average [1] - 32:6
Award [1] - 12:24
award [2] - 13:6, 58:13
awards [3] - 12:18,
12:21, 58:11
aware [23] - 17:7,
17:11, 28:6, 28:11,
28:16, 29:19, 30:12,
73:17, 75:25, 84:18,
146:22, 188:15,
188:19, 198:3,
198:12, 199:10,
199:19, 204:3,
204:6, 208:3,
217:14, 218:3, 262:6
awful [1] - 127:19
awkward [1] - 12:9

B

baby [1] - 65:13
backtracking [1] -
134:24
backwards [1] -
134:19
backyard [1] - 74:6
bad [3] - 17:3, 73:8,
250:15
bag [1] - 60:17
bagel [11] - 191:22,
192:23, 193:2,
194:10, 200:18,
201:14, 205:22,
213:8, 214:10, 216:4
balance [1] - 65:17
ball [1] - 173:3
balls [3] - 53:3, 53:4,
61:3
bank [2] - 58:21,
214:21
Bank [1] - 65:25
bankruptcy [2] - 57:3,
57:14
banner [2] - 50:14,
52:12
baptism [1] - 14:15
Bar [2] - 49:11, 63:8
bar [18] - 43:16, 43:21,
43:22, 43:25, 44:12,
46:18, 46:22, 47:24,
50:5, 50:7, 50:10,
50:14, 50:25, 59:10,
65:6, 212:4, 212:6,
213:15
bare [1] - 79:19
bark [1] - 265:6
Bark [2] - 4:11, 4:24
BARKET [43] - 2:3,

2:5, 4:24, 5:20, 6:2,
6:5, 36:20, 39:7,
57:20, 90:2, 102:10,
102:22, 103:4,
103:20, 113:23,
115:15, 119:15,
120:6, 133:2, 140:9,
158:19, 162:24,
164:14, 167:21,
168:7, 171:25,
188:20, 189:4,
189:13, 204:10,
233:15, 233:25,
234:12, 236:13,
243:9, 245:25,
252:2, 254:22,
255:2, 259:11,
261:24, 262:12,
263:25
Barry [1] - 5:2
BARRY [1] - 2:12
bartender [1] - 50:8
base [3] - 102:6,
135:21, 136:6
based [8] - 45:11,
46:14, 77:24, 89:10,
89:11, 89:12,
186:21, 244:14
basis [4] - 34:2, 34:14,
34:16, 36:8
bathroom [2] - 60:5,
104:20
battle [2] - 13:4, 13:6
Beach [1] - 65:19
beam [1] - 142:8
beat [3] - 81:5, 81:6,
184:3
became [5] - 13:21,
19:10, 74:16, 84:18,
92:23
become [4] - 17:16,
45:7, 45:8, 142:7
becoming [2] - 35:13,
45:14
bed [10] - 125:10,
127:7, 128:11,
128:17, 128:20,
128:21, 148:24,
247:6, 252:11,
260:17
bedroom [20] - 98:13,
99:21, 99:23, 99:25,
104:14, 104:19,
122:24, 125:15,
125:17, 126:6,
126:13, 126:19,
137:25, 152:6,
252:11, 260:14,
260:16, 260:17,
260:23, 261:5

beeped [3] - 69:23,
69:24, 70:5
beepers [1] - 69:22
beers [1] - 53:20
began [4] - 92:13,
125:10, 130:5,
247:21
begging [1] - 149:20
begin [4] - 13:16,
44:10, 45:8, 251:2
beginning [5] - 9:18,
48:7, 168:3, 233:21,
234:5
begins [2] - 22:8,
127:15
begs [1] - 207:10
behalf [4] - 5:3, 5:5,
5:8, 215:7
behind [3] - 50:23,
51:11, 128:20
believes [1] - 229:21
Belle [5] - 68:21,
73:13, 73:14,
249:17, 249:18
ben [1] - 134:12
bend [1] - 257:18
best [12] - 10:15,
23:11, 23:15, 23:24,
33:15, 41:3, 81:16,
83:9, 86:25, 185:7,
230:6, 230:23
better [2] - 245:19,
247:9
between [17] - 12:10,
16:18, 42:24, 43:22,
80:5, 109:15,
109:19, 110:2,
161:14, 170:21,
172:24, 197:18,
219:9, 220:2,
247:22, 261:3, 261:6
big [3] - 254:20,
254:21, 256:18
biggest [1] - 254:19
Bill [1] - 11:20
bill [1] - 199:3
Billy [3] - 54:11,
54:12, 198:14
biological [1] - 80:19
birth [1] - 14:14
bit [16] - 15:19, 24:25,
25:3, 43:20, 67:10,
69:19, 71:18, 84:11,
120:18, 180:23,
205:7, 220:8,
241:12, 247:11,
251:25, 253:21
bitter [5] - 161:5,
161:14, 162:2,
165:12, 219:21

bizarre [1] - 207:24
black [2] - 232:24,
239:4
blank [2] - 263:20,
263:21
blatant [1] - 245:3
bleed [1] - 132:18
bleeding [2] - 106:11,
106:13
blind [1] - 61:17
blind-sided [1] - 61:17
blood [124] - 99:7,
99:12, 99:15, 99:19,
100:3, 102:3, 102:6,
106:3, 106:9,
108:19, 108:24,
111:12, 112:17,
112:24, 113:16,
113:19, 114:22,
116:10, 116:13,
116:15, 116:17,
116:20, 117:2,
117:4, 117:5, 117:6,
117:7, 117:9,
117:14, 117:16,
117:23, 118:2,
118:6, 118:11,
118:24, 118:25,
119:12, 119:14,
120:16, 120:17,
121:7, 121:11,
121:15, 121:18,
121:21, 122:9,
129:18, 129:19,
130:13, 130:25,
131:9, 131:11,
131:17, 131:18,
132:7, 132:9,
132:20, 132:22,
132:24, 133:15,
134:8, 134:9,
134:11, 134:14,
134:15, 134:21,
134:22, 135:2,
135:4, 135:6, 135:8,
135:15, 135:24,
136:5, 136:13,
136:22, 137:2,
137:4, 138:4, 138:7,
138:16, 138:21,
139:4, 139:12,
139:13, 139:18,
139:21, 139:23,
140:4, 140:21,
140:24, 141:2,
141:4, 141:9,
141:12, 141:13,
141:24, 142:5,
143:11, 143:17,
144:6, 144:7,

144:16, 145:6,
145:9, 145:11,
145:13, 145:16,
145:22, 146:15,
146:23, 147:3,
147:7, 147:10,
148:4, 148:9,
229:10, 244:2,
245:23, 246:12,
256:22, 267:10
bloods [1] - 131:19
bludgeoned [4] -
253:7, 253:11,
253:13, 258:6
bluff [1] - 73:25
bluffs [1] - 74:5
blunt [1] - 260:12
boasting [1] - 206:6
boat [5] - 249:4,
250:4, 250:8,
250:10, 250:12
boating [1] - 231:24
Bob [2] - 50:9, 190:11
bodies [2] - 254:17,
259:17
body [6] - 22:21,
22:23, 26:10,
118:11, 125:2, 152:6
bolts [1] - 50:5
bone [1] - 250:6
bono [1] - 54:12
booth [1] - 51:2
booths [1] - 51:4
born [2] - 41:12, 86:20
bothering [2] - 50:7,
187:19
bottom [5] - 96:23,
135:22, 236:6,
236:16, 236:17
bought [2] - 63:7, 67:6
bouncer [1] - 49:23
boundaries [1] - 18:18
bounds [1] - 17:9
Bovet [1] - 103:13
box [1] - 78:17
boy [6] - 228:24,
231:4, 231:7,
231:12, 231:14,
232:17
bragged [1] - 199:20
bragging [2] - 203:8,
207:24
Braslow [1] - 206:20
break [5] - 57:23,
58:8, 59:25, 80:13,
210:10
breaking [2] - 61:2,
261:20
breathe [1] - 228:22
brief [4] - 58:2,

167:25, 169:22,
233:19
briefly [1] - 135:7
bright [7] - 123:21,
123:24, 123:25,
124:2, 125:7,
150:10, 256:10
bring [11] - 52:12,
53:14, 62:23, 170:4,
170:6, 175:20,
176:2, 176:15,
176:21, 177:12,
181:4
bringing [1] - 178:14
Broadway [2] - 49:12,
63:9
broke [2] - 102:23,
221:15
Brookhaven [1] -
48:14
brother [7] - 14:23,
14:24, 14:25, 17:23,
17:24, 86:12, 195:15
brothers [6] - 14:6,
14:8, 80:20, 195:13,
195:18, 196:11
brought [1] - 194:14
brown [1] - 134:16
Bruce [8] - 4:24,
81:25, 231:5, 243:7,
247:8, 256:12,
261:19
BRUCE [1] - 2:5
bruised [1] - 261:12
bruises [2] - 120:18,
253:14
BRUSTIN [1] - 2:7
brutal [2] - 30:24,
206:24
brutally [5] - 11:12,
172:9, 228:6, 228:7,
252:25
bucks [2] - 216:6,
216:7
building [5] - 51:7,
51:11, 60:9, 63:10,
65:10
Building [1] - 2:15
bullshit [4] - 193:23,
194:5, 201:24, 217:4
bunch [4] - 50:14,
193:22, 217:3, 217:4
bureau [2] - 9:25
burglar [2] - 221:15,
221:17
burglars [1] - 51:7
burned [1] - 66:8
bus [1] - 11:19
business [23] - 19:13,
19:15, 57:17, 62:18,

62:25, 63:12, 63:13,
63:14, 64:16, 65:5,
68:21, 68:23, 162:4,
165:8, 165:22,
168:11, 174:8,
192:14, 192:23,
201:6, 206:25,
211:20, 219:9
businesses [2] -
64:10, 171:11
but.. [1] - 10:25
butchered [1] - 149:18
BY [8] - 2:5, 2:9, 2:12,
2:16, 5:19, 102:21,
168:6, 233:24

C

cable [1] - 128:3
calf [3] - 116:19,
118:7, 121:24
California [5] - 69:16,
69:17, 194:15,
214:11, 216:5
capable [2] - 16:5,
159:25
captain [1] - 191:14
car [11] - 60:12, 60:14,
60:18, 87:20,
113:22, 196:2,
198:25, 199:4,
248:9, 248:12
card [18] - 14:18,
70:24, 71:3, 71:4,
71:8, 71:12, 72:12,
72:19, 73:2, 73:4,
73:9, 174:9, 209:19,
209:23, 210:3,
210:6, 210:24
cards [1] - 45:3
care [3] - 182:13,
213:18, 230:8
cared [2] - 173:23,
174:2
career [2] - 19:8,
20:10
careful [2] - 17:9,
35:16
Carl [2] - 190:20,
190:22
carl [1] - 190:23
Carmody [1] - 69:12
Carnegie [1] - 67:22
Carolina [5] - 47:7,
55:18, 55:19, 60:3,
66:10
Carolinas [2] - 55:15,
55:16
carpenter [1] - 225:12

cars [2] - 52:7, 248:7
Case [1] - 266:2
case [30] - 7:25, 12:16,
31:7, 31:9, 34:13,
34:15, 36:12, 51:7,
55:4, 55:5, 55:6,
55:10, 56:22, 69:8,
69:12, 69:14, 69:15,
71:25, 72:13, 82:11,
92:5, 93:12, 106:8,
140:2, 177:10,
189:18, 201:21,
201:23, 202:18,
218:21
cases [2] - 22:16,
67:14
cast [1] - 132:21
casual [1] - 79:3
catching [1] - 67:13
category [1] - 214:24
Catterson [4] - 53:23,
53:25, 54:3, 54:4
caught [3] - 11:22,
244:8, 244:19
cautious [3] - 186:15,
186:25, 187:13
certain [4] - 45:12,
88:3, 97:19, 99:3
certainly [12] - 18:20,
19:16, 20:3, 27:22,
27:25, 40:22, 160:4,
168:16, 177:11,
185:19, 218:15,
230:7
certificate [2] - 14:14,
14:15
certification [1] - 3:6
CERTIFICATION [1] -
267:2
certify [2] - 267:4,
267:9
chair [32] - 101:23,
102:2, 102:3, 102:6,
105:11, 106:2,
106:3, 106:9,
106:11, 106:20,
107:6, 107:19,
108:15, 109:6,
109:7, 110:22,
112:4, 112:20,
113:4, 113:6,
113:11, 114:10,
114:21, 115:4,
115:8, 115:14,
115:22, 117:17,
121:12, 121:17,
138:17
challenged [1] - 158:8
chance [5] - 129:6,
192:2, 193:25,

199:15, 210:9
change [3] - 204:18,
207:12, 263:23
changed [1] - 64:3
changes [1] - 214:19
Channel [1] - 71:23
character [1] - 142:8
characterization [3] -
161:20, 257:3, 257:6
characterize [2] -
112:7, 204:12
charge [1] - 59:21
charged [10] - 47:20,
47:22, 54:14, 54:16,
54:18, 55:12, 55:14,
55:17, 55:25, 89:24
CHARLES [1] - 1:7
CHARTERED [1] -
2:10
charts [1] - 124:17
chased [2] - 11:21,
51:22
chasing [2] - 51:21,
51:25
chat [1] - 175:19
cheap [1] - 67:7
cheated [1] - 216:3
checklist [1] - 46:20
chest [1] - 23:19
CHEVALIER [1] - 2:10
chief [1] - 164:22
chirped [1] - 83:25
choice [1] - 184:24
chopped [1] - 253:16
chose [3] - 8:18,
205:11, 237:7
chronology [1] - 86:5
circumstance [1] -
232:18
circumstances [2] -
35:22, 228:9
City [7] - 1:13, 2:5,
4:10, 9:19, 50:9,
67:5, 67:6
city [1] - 13:16
civil [1] - 57:3
Civil [1] - 1:20
civilian [1] - 217:25
claim [1] - 186:6
claims [1] - 186:2
class [1] - 212:21
clean [1] - 146:11
cleaned [5] - 44:2,
47:7, 47:9, 119:12,
144:16
clear [6] - 6:7, 74:7,
144:21, 189:16,
246:3, 256:8
clearer [1] - 197:7

clearly [2] - 256:14, 4
260:6
cliff [1] - 74:5
clips [1] - 71:19
clock [3] - 44:2, 47:7,
47:9
close [6] - 10:24,
93:16, 136:17,
172:5, 172:9, 261:21
closed [2] - 137:23,
139:17
closely [2] - 129:7,
203:5
closet [2] - 104:21,
157:7
clothes [3] - 53:13,
53:14, 54:5
clothing [2] - 108:20,
108:24
clown [2] - 203:20,
203:21
clumps [1] - 131:19
cocaine [5] - 191:21,
197:22, 200:17,
202:8, 205:22
coincidence [2] -
154:21, 155:2
colleague [1] - 16:23
collect [5] - 84:25,
85:13, 86:3, 164:8,
164:21
collected [2] - 65:17,
202:9
collecting [6] - 14:16,
164:21, 201:19,
202:23, 206:2,
242:14
collections [3] -
193:16, 200:6,
200:25
collector [1] - 202:11
college [1] - 248:25
colloquy [5] - 188:5,
203:12, 206:15,
214:6, 244:17
Colorado [1] - 11:19
coma [1] - 224:14
comatose [1] - 236:21
Combat [2] - 12:25,
13:2
combat [1] - 13:3
coming [7] - 12:9,
60:5, 60:23, 61:5,
123:12, 171:15,
193:15
comment [4] - 16:15,
16:22, 17:3, 154:4
commented [1] -
30:11
commission [3] -

28:13, 28:17, 29:5
commit [2] - 19:25,
 89:25
committed [12] -
 12:14, 20:15, 20:16,
 30:17, 30:23, 41:25,
 42:2, 175:22,
 175:24, 177:13,
 206:10, 222:15
committee [1] - 48:18
committing [4] -
 20:20, 199:20,
 206:6, 233:2
common [1] - 32:15
communication [2] -
 87:22, 87:23
community [6] -
 73:20, 73:24,
 211:11, 211:13,
 213:8, 213:13
company [1] - 225:16
compare [2] - 122:8,
 242:18
compensation [1] -
 9:8
complainant [1] - 76:7
complainant/victim
 [1] - 76:6
completed [1] - 38:24
completely [2] -
 141:7, 146:10
complying [1] - 39:24
compress [6] -
 155:24, 156:3,
 156:13, 157:17,
 157:20, 158:11
conceptual [2] -
 89:23, 90:17
concern [3] - 20:4,
 152:24, 153:2
concerned [1] - 163:8
concerning [1] - 7:4
concerns [2] - 152:9,
 152:14
conclusion [1] -
 215:21
conclusionary [1] -
 140:7
conclusions [1] -
 241:20
conditions [1] -
 127:13
conduct [1] - 202:23
conducted [1] -
 220:11
conducting [1] - 40:18
confess [10] - 18:24,
 21:9, 21:13, 27:16,
 34:5, 41:3, 42:21,
 178:23, 222:21,

223:8
confessed [5] - 84:4,
 84:14, 85:23, 85:24,
 178:13
confessing [3] - 24:8,
 31:12, 178:21
confession [27] -
 16:10, 16:17, 17:6,
 19:19, 21:16, 28:7,
 32:4, 32:18, 33:7,
 33:23, 34:11, 34:21,
 35:3, 114:7, 114:9,
 152:2, 178:5, 178:7,
 178:11, 178:12,
 178:19, 178:22,
 179:25, 183:25,
 224:5, 226:17,
 226:20
confessions [9] -
 15:19, 16:19, 16:20,
 18:2, 30:13, 31:20,
 40:12, 179:20,
 184:11
confront [1] - 155:23
confronted [1] - 229:8
confronting [3] -
 155:18, 155:22,
 223:9
confused [1] - 223:18
connected [5] - 200:5,
 202:21, 203:6,
 215:16, 216:22
Connecticut [2] -
 74:8, 249:20
connection [4] - 7:24,
 11:16, 36:12, 76:17
consider [6] - 87:5,
 88:20, 164:5,
 164:18, 164:19,
 223:16
consistent [2] - 83:11,
 122:11
consists [1] - 96:15
construction [4] -
 59:18, 64:13, 64:14,
 64:16
contact [1] - 141:13
contacted [1] - 76:10
contains [2] - 27:7,
 27:11
contemporaneous [2]
 - 37:23, 95:22
contention [1] - 250:7
contentious [1] -
 250:10
context [4] - 43:6,
 44:12, 44:13, 237:10
continue [8] - 23:4,
 23:5, 165:3, 168:25,
 169:3, 177:18,

189:14, 199:15
continued [3] - 164:5,
 229:5, 235:11
CONTINUED [3] -
 102:21, 168:6,
 233:24
continues [3] - 76:13,
 189:7, 232:12
contract [2] - 9:6, 9:11
conversation [12] -
 29:23, 41:17, 44:4,
 70:13, 94:21, 130:6,
 153:17, 169:22,
 171:21, 173:18,
 175:13, 183:12
conversations [2] -
 43:11, 120:14
converse [1] - 18:11
convict [1] - 91:15
convicted [12] - 75:22,
 84:24, 85:10, 85:13,
 86:2, 91:14, 91:15,
 91:17, 91:20, 92:3,
 202:8, 204:23
conviction [4] - 76:19,
 189:21, 204:5,
 212:22
convince [4] - 23:10,
 24:7, 24:17, 41:2
convinced [2] -
 223:21, 240:24
cop [2] - 242:20, 245:9
copies [1] - 95:18
cops [1] - 52:17
copy [4] - 39:9, 39:11,
 40:7, 225:19
core [2] - 23:10, 24:16
corner [7] - 37:15,
 49:15, 50:20, 50:22,
 63:9, 63:24, 68:10
correct [55] - 7:25,
 10:9, 25:23, 30:8,
 41:5, 73:20, 77:20,
 80:25, 85:21, 90:4,
 91:12, 92:9, 94:19,
 97:7, 98:25, 99:13,
 99:17, 100:7, 101:4,
 101:21, 101:24,
 102:3, 104:5,
 105:21, 105:24,
 109:16, 110:7,
 112:24, 117:18,
 123:4, 125:7,
 125:18, 126:14,
 137:5, 137:25,
 142:11, 147:8,
 147:12, 157:14,
 159:16, 160:4,
 165:6, 169:4, 179:8,
 181:5, 181:8,

181:16, 224:22,
 238:6, 243:15,
 248:4, 248:7, 251:7,
 258:24, 261:10
CORRECTIONS [1] -
 266:5
correctly [1] - 64:9
corroborate [2] -
 219:8, 219:12
corroborated [1] -
 21:19
corroboration [1] -
 246:14
cost [2] - 54:7, 208:25
counsel [4] - 3:4,
 4:21, 167:7, 188:4
count [2] - 61:19,
 205:7
country [2] - 11:17,
 11:21
Country [3] - 1:12,
 2:4, 4:10
County [15] - 4:5, 5:8,
 9:12, 9:16, 9:21,
 10:11, 11:23, 14:22,
 17:19, 28:8, 48:12,
 67:8, 76:8, 183:10,
 266:3
COUNTY [3] - 1:7, 1:8,
 2:14
county [2] - 12:2,
 54:24
couple [12] - 18:6,
 18:7, 38:10, 53:20,
 58:8, 65:10, 71:19,
 122:15, 203:24,
 208:17, 223:7,
 239:14
coupled [1] - 214:23
course [28] - 12:19,
 19:8, 20:9, 21:11,
 21:15, 25:9, 29:8,
 29:11, 29:18, 30:3,
 30:16, 35:5, 114:7,
 129:22, 134:2,
 139:25, 142:13,
 148:13, 161:6,
 164:3, 179:11,
 180:16, 182:3,
 189:18, 221:4,
 229:23, 248:14,
 249:9
Court [2] - 3:16, 4:7
COURT [1] - 1:2
court [12] - 4:17, 5:13,
 6:19, 78:18, 153:20,
 153:23, 187:23,
 190:12, 201:18,
 227:6, 234:3, 234:8
courtroom [2] - 78:15,

119:18
cousin [1] - 86:12
cover [2] - 70:16,
 110:17
cover-up [1] - 110:17
covered [2] - 141:3,
 141:7
covers [1] - 53:18
coverup [4] - 111:18,
 112:8, 112:11,
 140:13
crack [3] - 197:15,
 197:17, 197:21
Crayne [4] - 120:11,
 120:21, 138:7,
 265:15
Crayne's [1] - 121:2
created [1] - 95:20
creates [1] - 132:22
credibility [1] - 121:4
credit [1] - 213:22
Creedon [28] - 188:6,
 188:9, 188:17,
 188:18, 189:9,
 189:12, 189:16,
 190:6, 190:7,
 190:11, 193:5,
 199:16, 199:20,
 200:24, 201:16,
 201:18, 202:5,
 202:9, 203:18,
 205:25, 206:6,
 206:9, 207:22,
 207:23, 208:6,
 208:10, 209:8,
 216:22
cried [1] - 80:12
crime [30] - 7:20,
 15:16, 19:24, 20:15,
 20:16, 25:8, 25:13,
 30:17, 30:25, 31:13,
 42:2, 42:7, 46:12,
 47:21, 55:12, 55:18,
 55:24, 75:7, 82:8,
 82:22, 85:10, 85:13,
 89:25, 191:14,
 193:17, 230:25,
 233:2, 243:4
crimes [7] - 16:7,
 19:25, 20:20, 41:20,
 42:22, 177:13,
 206:11
criminal [4] - 104:7,
 198:21, 202:22,
 245:18
criminals [1] - 207:25
criticism [2] - 28:19,
 28:22
cross [1] - 17:12
Cross [3] - 12:25,

13:2, 13:3
cross-examine [1] - 17:12
crowded [1] - 49:24
crying [3] - 227:7, 227:11, 227:19
cue [1] - 188:21
cues [2] - 88:2, 88:8
curiosity [2] - 59:11, 103:11
curious [4] - 42:10, 42:12, 42:20, 78:22
curiously [1] - 28:21
curtains [2] - 123:3, 123:7
customers [1] - 50:8
cut [7] - 85:8, 85:25, 131:25, 190:2, 190:14, 234:2, 258:20

D

D.C [1] - 2:12
DA [1] - 54:3
DA's [2] - 17:20, 190:12
dad [8] - 13:19, 13:21, 14:20, 118:4, 121:8, 176:5, 232:13, 238:2
damage [1] - 60:18
damn [3] - 206:22, 221:17, 223:22
Dan [9] - 192:11, 192:12, 192:13, 242:12, 242:16, 242:21, 243:4, 243:11, 244:6
Danford's [1] - 48:20
dark [1] - 134:16
Date [1] - 266:3
date [4] - 37:14, 37:16, 37:18, 76:11
daughter [1] - 180:13
days [4] - 11:22, 13:24, 82:7, 215:3
dead [8] - 77:13, 87:18, 87:20, 129:23, 164:10, 164:23, 212:17, 228:6
deal [2] - 52:14, 213:24
dealing [2] - 167:13, 167:14
dealings [2] - 180:16, 211:20
death [1] - 214:16
Deblasi [1] - 69:17

debt [9] - 163:3, 163:16, 163:17, 163:22, 164:4, 164:7, 164:20, 165:3
decade [1] - 206:7
deceit [1] - 222:18
December [5] - 1:14, 4:12, 14:2, 126:2, 266:3
deception [1] - 24:14
decide [2] - 44:21, 45:4
decided [1] - 69:14
decides [2] - 45:9, 54:4
decision [5] - 181:2, 181:7, 181:10, 181:14, 186:20
decorating [1] - 98:7
deducted [1] - 13:25
deed [2] - 65:22, 78:3
deeds [1] - 92:22
deer [1] - 262:23
Defendant [3] - 56:22, 186:6, 186:22
defendant [2] - 76:12, 77:5
Defendant's [1] - 185:3
defendants [1] - 5:9
Defendants [3] - 1:10, 1:18, 2:14
defense [7] - 27:23, 133:25, 245:16, 245:18, 245:20, 245:21
defensive [1] - 261:10
deli [3] - 63:21, 63:23, 63:24
DeLuca [4] - 49:21, 52:2, 54:13, 54:16
demand [1] - 184:4
demanding [4] - 162:15, 162:18, 162:21, 162:22
demeanor [5] - 45:11, 77:11, 78:14, 86:22, 227:18
denial [3] - 238:19, 239:17, 240:9
Dennis [4] - 15:8, 15:9, 196:16, 196:20
Dennison [1] - 2:15
dentist [1] - 65:2
deny [1] - 232:12
department [8] - 9:7, 9:12, 17:15, 62:3, 62:15, 181:2, 183:11, 185:13
DEPARTMENT [1] -

2:14
Department [9] - 9:20, 9:22, 10:12, 14:5, 75:21, 76:8, 76:17, 76:23, 77:16
dependant [1] - 95:20
depict [1] - 255:18
depicted [1] - 260:7
deposition [8] - 3:6, 3:13, 4:3, 4:9, 6:14, 8:9, 46:21, 232:9
DEPOSITION [1] - 1:17
Deposition [1] - 266:3
depth [1] - 171:21
derogatory [2] - 23:9, 24:13
described [13] - 79:5, 79:18, 79:24, 82:5, 102:25, 107:15, 108:21, 115:5, 129:15, 134:21, 155:21, 158:7, 218:9
describing [4] - 152:19, 152:22, 152:23, 231:11
Description [1] - 265:9
descriptions [1] - 80:5
detail [1] - 256:15
details [1] - 22:12
Detective [20] - 5:11, 16:16, 29:20, 38:15, 70:14, 71:11, 72:19, 76:7, 76:10, 77:4, 83:19, 87:7, 87:15, 181:3, 181:11, 181:21, 187:11, 241:13, 245:6, 247:22
detective [19] - 9:25, 10:16, 10:25, 11:3, 14:25, 15:20, 18:14, 18:15, 19:4, 25:4, 26:20, 46:3, 50:10, 55:2, 59:6, 94:11, 120:4, 183:19, 217:25
Detectives [1] - 48:24
detectives [5] - 14:21, 21:11, 23:23, 30:23, 32:3
detector [5] - 236:7, 236:24, 237:5, 238:6, 241:7
detectors [1] - 51:9
develop [2] - 21:18, 22:13
developed [1] - 69:13
device [1] - 130:18

dialed [1] - 135:15
Diconta [1] - 191:18
died [1] - 212:17
dieing [1] - 228:7
difference [2] - 80:5, 204:23
different [12] - 28:3, 39:4, 43:6, 45:24, 103:15, 105:4, 155:5, 155:13, 166:3, 177:7, 197:24, 231:10
differently [1] - 46:16
difficulty [1] - 33:11
dimensional [1] - 257:19
directed [1] - 181:18
directions [1] - 70:12
directly [1] - 160:14
dirt [1] - 60:17
dirty [1] - 245:9
disability [1] - 15:3
disagree [1] - 185:9
disappear [1] - 163:18
disbelieve [2] - 192:6, 242:20
discern [1] - 46:10
discovered [2] - 22:22, 93:10
discretion [1] - 237:19
discussed [2] - 243:19, 243:23
discussing [3] - 177:10, 248:15, 248:20
discussion [1] - 16:10
dismissed [4] - 55:6, 55:10, 56:3, 56:4
disown [1] - 193:11
disproven [2] - 186:4, 186:7
dispute [14] - 30:20, 77:15, 105:17, 105:19, 161:14, 161:23, 161:25, 162:4, 165:21, 166:21, 188:2, 199:23, 201:6, 205:14
disputing [1] - 132:3
distinct [1] - 239:13
distinction [1] - 42:24
distraught [1] - 36:2
distress [1] - 34:9
distressed [5] - 31:21, 32:25, 33:6, 33:9, 35:18
district [4] - 11:25, 183:6, 183:7, 212:15
DISTRICT [2] - 1:2, 1:2

District [2] - 4:7, 4:8
divorces [1] - 57:2
Dix [1] - 58:19
DOE [1] - 1:8
dollar [1] - 163:25
dollars [2] - 162:13, 211:6
DOLLY [2] - 267:3, 267:19
Dolly [2] - 1:22, 4:18
domestic [1] - 78:7
Don [3] - 87:16, 192:8, 192:11
donations [1] - 48:25
done [12] - 49:10, 57:14, 116:8, 117:3, 148:24, 148:25, 168:19, 176:20, 224:21, 225:11, 232:23, 239:4
door [15] - 49:19, 49:23, 49:25, 50:3, 61:15, 61:16, 61:17, 68:24, 137:21, 138:4, 139:16, 142:3, 142:5, 142:9, 142:10
doorknob [5] - 137:8, 137:10, 140:24, 146:23, 147:4
doubt [7] - 107:13, 120:20, 120:23, 120:25, 230:12, 232:18, 234:18
doug [1] - 72:2
Doug [3] - 72:3, 72:8, 72:10
down [32] - 8:23, 30:22, 47:6, 48:2, 48:20, 50:25, 51:22, 51:23, 52:7, 52:17, 52:19, 53:17, 54:20, 55:15, 60:3, 60:4, 65:9, 66:6, 66:8, 71:23, 105:11, 120:12, 127:7, 128:20, 135:22, 138:20, 139:15, 153:21, 158:25, 178:16, 178:20, 251:20
downstairs [1] - 63:24
Doyle [16] - 38:15, 67:24, 69:14, 69:16, 70:2, 70:14, 71:12, 72:17, 72:20, 74:17, 169:19, 174:12, 181:3, 210:10, 210:22, 215:24
DOYLE [1] - 1:7

Doyle's [1] - 259:24
 Dr [1] - 208:22
 draw [1] - 42:24
 drawn [1] - 123:4
 dried [3] - 131:19,
 134:11, 137:4
 drinking [1] - 56:6
 dripping [1] - 132:10
 Drive [3] - 82:6,
 157:10, 157:13
 drives [1] - 248:10
 driving [3] - 52:2,
 71:7, 72:11
 drove [2] - 51:15,
 60:13
 drug [7] - 192:23,
 197:14, 197:20,
 198:11, 200:7,
 201:19, 202:23
 drugs [6] - 194:9,
 199:8, 201:14,
 202:10, 205:21,
 216:22
 dry [11] - 131:12,
 131:14, 131:18,
 134:8, 134:15,
 134:16, 134:21,
 134:22, 134:23,
 135:3, 135:4
 due [2] - 89:2, 236:19
 DUI [1] - 55:25
 duly [2] - 5:16, 267:6
 dUNNE [1] - 158:17
 Dunne [3] - 5:7, 40:7,
 142:21
 DUNNE [84] - 2:16,
 5:7, 32:7, 32:11,
 32:21, 37:3, 59:12,
 79:14, 81:20, 81:25,
 83:14, 86:23, 87:12,
 88:18, 109:2,
 124:19, 140:6,
 145:23, 148:6,
 150:16, 153:6,
 158:20, 160:24,
 161:18, 162:23,
 163:12, 164:11,
 164:16, 165:15,
 166:7, 171:22,
 173:5, 185:5,
 185:14, 187:3,
 187:15, 188:4,
 193:20, 202:17,
 203:2, 203:10,
 203:23, 204:8,
 205:9, 206:14,
 207:3, 207:8,
 210:17, 214:5,
 215:6, 216:25,
 219:4, 222:2,

223:12, 224:24,
 226:25, 227:12,
 230:4, 230:20,
 231:5, 232:4, 233:5,
 234:10, 236:11,
 236:18, 238:15,
 239:24, 242:23,
 243:6, 244:16,
 245:10, 246:22,
 247:7, 254:14,
 256:5, 256:12,
 256:25, 258:8,
 259:8, 259:13,
 260:2, 260:8,
 261:19, 262:25
 during [6] - 16:21,
 29:8, 29:11, 29:18,
 30:16, 182:3
 duties [1] - 12:19
 Dwyer [2] - 191:2,
 191:4
 dying [2] - 77:14, 78:3

E

ear [3] - 253:15, 254:3,
 255:25
 earliest [1] - 13:16
 early [4] - 15:2, 124:4,
 197:19, 202:24
 easier [1] - 32:16
 easily [1] - 125:4
 east [2] - 125:24,
 126:7
 EASTERN [1] - 1:2
 Eastern [1] - 4:8
 economy [1] - 65:9
 Eddie [2] - 48:15,
 69:16
 effect [2] - 3:15, 190:5
 Eighth [1] - 2:8
 eighties [4] - 197:14,
 197:18, 197:19,
 202:24
 either [7] - 41:25,
 99:11, 106:23,
 197:2, 213:7, 217:5,
 267:10
 electrical [1] - 65:15
 elementary [1] - 51:23
 elevated [3] - 105:12,
 112:21, 138:18
 elevating [1] - 112:5
 eliminate [1] - 184:15
 emanate [1] - 128:6
 emanated [1] - 128:12
 emanates [1] - 127:19
 Emerald [2] - 58:12,
 58:13

emergency [1] -
 107:13
 Emma [1] - 5:4
 EMMA [1] - 2:9
 emotional [10] - 34:8,
 78:12, 78:13, 78:19,
 81:17, 83:10, 86:19,
 87:7, 94:2
 emotionally [6] -
 31:21, 32:25, 33:6,
 33:9, 35:18, 36:2
 employ [3] - 26:20,
 41:18, 44:10
 employees [1] - 201:6
 EMPLOYEES [1] - 1:8
 employment [1] - 9:15
 emptying [1] - 214:20
 EMT [1] - 131:23
 end [12] - 19:20, 22:4,
 48:7, 53:21, 55:10,
 64:2, 96:2, 145:21,
 184:2, 184:7,
 187:24, 195:19
 ended [2] - 65:16,
 194:8
 enforcement [2] -
 13:14, 196:12
 engage [2] - 13:3,
 181:22
 engaged [2] - 41:21,
 247:12
 engages [1] - 245:18
 enter [2] - 10:6,
 164:25
 entered [1] - 97:18
 entertaining [1] -
 16:20
 entertainment [1] -
 61:24
 entire [3] - 86:10,
 206:15, 240:21
 entirely [1] - 84:19
 entitled [3] - 92:7,
 128:24, 129:3
 entrance [1] - 104:11
 Epstein [1] - 4:11
 EPSTEIN [1] - 2:3
 equipment [2] - 64:2,
 162:7
 Erin [3] - 75:13, 93:19,
 188:16
 ERRATA [1] - 266:2
 errors [1] - 90:22
 especially [2] - 83:16,
 87:17
 ESQ [5] - 2:5, 2:6, 2:9,
 2:12, 2:16
 essence [2] - 160:20,
 229:15
 essentially [1] - 84:19

established [1] -
 246:23
 estate [5] - 163:16,
 163:19, 163:21,
 164:6, 164:23
 estate's [1] - 164:20
 Ethel [3] - 131:16,
 131:23, 134:21
 event [2] - 129:4,
 226:9
 events [1] - 95:22
 eventually [1] - 12:13
 evidence [17] - 19:19,
 90:9, 111:10, 122:9,
 129:2, 184:25,
 185:13, 185:18,
 207:16, 216:24,
 218:25, 221:23,
 241:20, 241:23,
 245:7, 246:7, 246:8
 exact [2] - 117:15,
 177:8
 exactly [9] - 44:8,
 78:17, 116:25,
 117:14, 117:17,
 153:22, 170:24,
 254:18, 259:15
 exam [1] - 213:19
 EXAMINATION [4] -
 5:19, 102:21, 168:6,
 233:24
 Examination [1] -
 265:6
 examination [2] -
 134:20, 136:17
 examine [2] - 17:12,
 130:19
 examined [2] - 5:18,
 262:7
 examining [1] - 21:11
 example [3] - 22:17,
 99:6, 200:5
 except [3] - 3:9, 80:24,
 193:8
 exchange [1] - 246:2
 excited [1] - 79:12
 excitement [1] -
 149:19
 exclusive [2] - 249:11,
 249:15
 excuse [3] - 61:3,
 85:10, 247:20
 exhibit [1] - 188:21
 Exhibit [21] - 39:12,
 39:16, 76:4, 103:6,
 103:22, 104:2,
 113:25, 114:3,
 115:17, 120:8,
 188:23, 252:8,
 254:24, 265:10,

265:11, 265:12,
 265:13, 265:14,
 265:15, 265:17,
 265:19
 exhibits [1] - 36:21
 Exhibits [9] - 133:5,
 133:8, 252:5, 255:5,
 262:15, 265:16,
 265:18, 265:20,
 265:21
 EXHIBITS [1] - 265:8
 exist [1] - 164:5
 exiting [1] - 60:8
 exits [1] - 87:20
 exonerated [1] -
 189:22
 exoneration [2] -
 204:6, 204:9
 expect [11] - 116:9,
 117:2, 117:15,
 126:24, 128:17,
 135:8, 139:13,
 139:18, 140:23,
 150:7, 150:8
 expected [2] - 112:24,
 134:5
 experience [3] - 19:9,
 35:7, 89:13
 experienced [2] -
 46:9, 94:10
 experiences [1] -
 41:15
 experts [1] - 133:25
 explain [6] - 139:3,
 149:25, 150:2,
 150:19, 173:7,
 234:23
 explained [3] - 61:2,
 74:14, 169:23
 explanation [1] -
 141:17
 exploded [1] - 197:15
 explore [1] - 92:8
 explosion [1] - 197:20
 exposed [1] - 127:8
 expression [2] -
 263:20, 263:22
 extended [1] - 138:20
 extra [1] - 39:9
 extract [2] - 25:22,
 226:17
 eyes [1] - 120:19

F

face [13] - 116:16,
 117:24, 120:18,
 121:12, 121:15,
 121:23, 129:23,

215:11, 238:8,
238:9, 262:21,
263:3, 263:22
faced [1] - 126:6
faces [2] - 125:17,
125:20
facetious [4] - 125:23,
208:23, 209:3, 209:4
facia [1] - 55:5
facility [1] - 237:4
facing [2] - 115:7,
126:9
fact [47] - 17:10,
17:13, 22:2, 30:18,
76:16, 78:14, 81:22,
82:21, 84:18, 86:7,
98:19, 105:16,
113:3, 113:20,
118:20, 135:13,
140:2, 150:19,
152:17, 156:25,
161:4, 161:14,
164:19, 169:6,
171:14, 172:16,
173:17, 177:20,
202:9, 203:5,
203:14, 204:3,
205:13, 208:5,
208:21, 212:16,
216:4, 230:18,
234:21, 236:19,
237:17, 238:9,
240:6, 243:11,
243:17, 244:6,
252:17
factors [3] - 34:18,
34:24
facts [10] - 188:5,
205:20, 205:21,
205:25, 206:5,
206:9, 223:9,
232:25, 242:22,
259:3
factual [1] - 140:10
factually [1] - 94:16
failed [1] - 55:5
failure [1] - 16:25
fainting [1] - 149:19
fair [17] - 23:8, 24:18,
28:21, 74:18, 88:7,
111:14, 126:18,
131:8, 134:23,
136:21, 172:2,
172:22, 197:13,
197:23, 218:6,
218:7, 262:22
fairly [6] - 19:12,
19:15, 73:19, 129:7,
150:13, 198:24
fake [1] - 229:14

fakes [1] - 214:16
Falbee [1] - 82:14
falls [1] - 214:24
false [11] - 30:13,
31:2, 31:20, 32:4,
32:18, 33:7, 33:24,
34:11, 34:21, 35:2,
180:18
familiar [1] - 212:6
family [25] - 13:7,
13:10, 13:13, 13:18,
80:15, 80:16, 80:19,
82:3, 82:7, 82:10,
86:11, 166:3, 166:4,
168:11, 172:6,
172:21, 180:18,
191:14, 196:8,
199:12, 206:24,
243:4, 248:21
far [4] - 13:9, 13:17,
31:5, 68:20
fastest [1] - 10:10
fat [1] - 191:9
father [64] - 44:7,
59:10, 59:16, 60:15,
83:2, 84:5, 87:18,
88:25, 98:10, 101:8,
105:6, 105:20,
105:23, 106:20,
106:21, 106:25,
107:5, 107:18,
108:14, 110:21,
111:16, 112:4,
112:20, 113:3,
113:5, 115:7,
115:24, 117:16,
117:24, 118:10,
121:12, 121:16,
133:12, 137:16,
137:17, 138:17,
139:4, 140:4,
140:12, 143:15,
144:5, 148:20,
151:24, 152:19,
160:21, 165:20,
192:14, 205:4,
205:16, 224:11,
224:14, 227:14,
229:16, 229:24,
230:15, 233:3,
234:23, 237:24,
238:10, 238:13,
250:7, 253:7
father's [14] - 61:11,
83:4, 99:16, 101:21,
115:24, 116:2,
117:4, 117:9,
131:17, 132:11,
138:21, 152:22,
171:11, 219:24

favor [1] - 83:23
favorite [1] - 11:5
FDR [1] - 226:3
Federal [1] - 232:9
feed [1] - 25:25
feeding [2] - 27:3,
186:3
feet [17] - 79:19,
105:12, 107:7,
110:23, 112:5,
112:21, 113:8,
113:10, 114:14,
114:22, 114:24,
121:13, 123:7,
138:18, 149:18,
150:23, 174:6
fellow [1] - 65:13
felt [2] - 12:8, 78:18
festival [1] - 49:6
FEVOLA [2] - 267:3,
267:19
Fevola [3] - 1:22, 4:18,
4:19
few [5] - 69:20, 75:11,
82:7, 148:14, 155:12
Fifteenth [1] - 2:11
fifth [1] - 43:17
fifty [3] - 75:5, 236:4,
236:5
fifty-nine [3] - 75:5,
236:4, 236:5
fight [10] - 43:16,
43:21, 43:22, 44:12,
46:19, 47:24, 52:20,
52:21, 52:23, 161:5
fight [5] - 43:25,
46:22, 52:22,
219:21, 219:22
figure [3] - 94:14,
208:9, 224:7
figured [1] - 99:10
figures [1] - 193:17
file [1] - 57:13
filing [1] - 3:5
finally [1] - 11:22
fine [2] - 78:4, 171:5
fingerprints [2] -
221:16, 221:19
fingers [4] - 138:20,
138:22, 139:5,
139:16
fingertips [2] - 138:8,
139:12
finish [14] - 43:20,
100:16, 101:15,
108:6, 109:8,
111:25, 162:23,
202:17, 210:17,
227:9, 227:12,
231:6, 238:20, 256:5

finished [3] - 49:9,
80:12, 170:3
Finn [1] - 11:11
fire [1] - 65:16
firearm [1] - 226:2
firearms [2] - 22:17,
22:18
first [42] - 5:16, 8:20,
29:13, 36:10, 62:9,
62:12, 76:5, 79:23,
90:7, 96:24, 98:4,
105:6, 107:25,
108:9, 108:16,
108:20, 108:25,
110:16, 110:18,
111:15, 111:17,
111:19, 111:22,
112:3, 112:8,
112:11, 121:18,
121:22, 125:9,
131:24, 137:17,
140:14, 141:22,
144:5, 181:22,
191:20, 200:12,
226:11, 231:16,
231:20, 237:23,
239:16
fishing [2] - 63:25
five [3] - 16:24, 50:21,
109:10
flag [2] - 52:12, 53:14
flagrant [2] - 243:14,
246:14
flash [2] - 256:7,
256:13
flat [5] - 83:12, 88:14,
182:8, 182:9, 209:5
flees [1] - 214:20
flicked [1] - 148:3
Floor [1] - 2:8
floor [11] - 101:19,
105:12, 107:6,
107:19, 108:15,
110:22, 112:5,
112:21, 113:12,
121:17, 150:10
focused [1] - 77:5
follow [2] - 37:17,
63:19
followed [1] - 82:11
follows [1] - 5:18
food [1] - 48:22
foot [4] - 53:6, 127:7,
128:20, 193:2
FOR [3] - 1:2, 266:2,
266:6
force [3] - 3:14,
222:24, 260:12
forearm [3] - 116:19,
118:3, 121:25

forensic [1] - 146:11 8
forensics [1] - 240:20
forget [12] - 18:7,
50:23, 54:25, 55:7,
63:9, 64:2, 67:19,
104:4, 170:8,
170:23, 235:22,
258:13
forgive [1] - 81:4
forgot [1] - 214:15
forgotten [1] - 69:11
form [40] - 3:9, 24:14,
32:8, 32:22, 79:15,
81:21, 83:15, 86:24,
88:19, 145:24,
148:7, 150:18,
153:7, 160:25,
161:19, 165:16,
173:6, 185:6,
185:15, 187:3,
187:16, 203:11,
203:24, 207:4,
207:8, 217:2, 219:5,
222:3, 223:13,
227:2, 230:7, 233:6,
238:16, 239:25,
245:11, 247:8,
254:14, 257:2,
259:9, 263:2
formally [1] - 76:7
formed [1] - 14:22
former [1] - 8:11
Fort [1] - 191:15
forth [9] - 89:13,
94:16, 104:22,
132:20, 143:21,
144:20, 222:10,
249:20, 267:6
forward [4] - 115:8,
189:25, 203:16,
207:17
four [3] - 50:21,
218:19, 259:10
Four [1] - 218:19
four-and-a-half [1] -
218:19
Fourth [1] - 10:2
Fox [6] - 160:12,
166:17, 167:19,
170:21, 171:10,
176:19
fox [3] - 168:8, 168:15,
169:6
frame [1] - 80:10
frankly [2] - 17:7,
28:23
Fred's [1] - 64:25
free [3] - 39:25, 66:21,
205:7
FREUDENPERGER

[2] - 2:9, 5:4
Freudenperger [1] - 5:5
Friday [1] - 49:5
friend [2] - 172:5, 172:9
friends [4] - 63:5, 63:6, 65:3, 231:25
front [8] - 50:14, 53:18, 104:11, 198:21, 249:22, 253:24
full [8] - 49:21, 192:24, 201:24, 201:25, 202:2, 202:6, 229:17, 247:17
function [1] - 194:20
funeral [2] - 82:25, 83:5
funny [1] - 61:11
FURTHER [2] - 3:8, 3:12
future [2] - 178:9, 179:2
fuzz [1] - 128:3

G

Gambino [2] - 191:6, 191:14
game [18] - 70:24, 71:8, 71:13, 72:13, 72:19, 73:2, 73:4, 73:9, 173:3, 209:19, 209:23, 210:3, 210:6, 210:24, 211:6, 211:10, 213:12
games [2] - 71:3, 71:4
gang [1] - 201:5
gap [1] - 123:6
garage [3] - 137:13, 137:14, 137:20
garbage [1] - 53:17
Garden [3] - 1:13, 2:5, 4:10
Garland [1] - 49:15
gas [4] - 51:23, 51:25, 52:4, 52:5
gash [3] - 254:20, 254:21, 256:18
gather [1] - 25:7
Geed [4] - 72:2, 72:3, 72:8, 72:10
geez [2] - 152:20, 184:3
Gene [3] - 14:24, 17:25, 195:15
general [2] - 9:14,

103:18
generally [3] - 30:12, 31:25, 45:10
Gianelli [1] - 17:11
gift [1] - 41:11
girls [2] - 248:4, 248:15
Girodyne [2] - 68:7, 68:25
given [8] - 12:24, 48:22, 70:12, 171:2, 208:8, 232:17, 236:20, 267:8
glass [4] - 51:4, 130:21, 135:19, 135:21
glasses [1] - 136:18
glean [1] - 93:7
gloves [1] - 221:18
God [3] - 15:8, 61:18, 150:12
Godfather [1] - 172:19
Goldman [1] - 79:21
gotta [2] - 74:23, 93:3
Gottlieb [2] - 133:20, 190:11
govern [4] - 42:11, 42:13, 42:14, 42:21
grabbed [6] - 51:18, 53:6, 53:7, 53:10, 113:7, 113:10
grand [2] - 48:11, 90:10
grant [1] - 216:15
Granted [1] - 128:9
grass [1] - 198:18
great [3] - 42:17, 104:24, 215:24
greet [1] - 169:15
Grill [1] - 49:11
gritty [1] - 48:2
groin [1] - 53:4
grope [1] - 147:16
groping [1] - 147:23
ground [2] - 51:19, 53:2
grounds [5] - 207:9, 230:5, 230:20, 232:8, 242:24
growing [1] - 35:13
guess [43] - 8:10, 13:5, 16:9, 16:23, 25:3, 27:6, 29:22, 31:3, 35:4, 36:3, 36:15, 41:23, 43:19, 44:8, 55:24, 62:13, 66:7, 67:24, 75:18, 78:24, 86:17, 87:6, 87:21, 88:10, 92:4, 93:13, 102:24,

106:14, 121:9, 126:4, 142:12, 144:15, 144:20, 160:11, 171:25, 181:17, 197:16, 197:23, 199:14, 207:24, 228:10, 238:19, 252:9
guessing [1] - 74:15
guilt [1] - 129:2
guilty [15] - 19:23, 22:3, 90:25, 91:13, 91:17, 91:20, 93:22, 149:9, 150:14, 179:21, 207:19, 222:20, 223:6, 240:12
Gulf [2] - 62:9, 62:12
gullible [1] - 195:8
gun [2] - 13:4, 13:6
gut [3] - 42:17, 216:13, 216:24
guy [22] - 44:2, 44:23, 47:7, 49:17, 49:19, 50:4, 52:2, 52:4, 54:5, 58:21, 61:12, 63:16, 66:2, 81:4, 193:18, 196:19, 201:16, 202:21, 212:25, 213:15, 214:16, 225:3
guys [8] - 52:18, 67:13, 68:11, 71:4, 73:8, 153:22, 211:20, 214:5
gym [2] - 192:15, 242:6
gymnasium [1] - 104:16

H

hair [6] - 110:6, 131:19, 220:23, 221:7, 221:12, 221:13
half [10] - 71:24, 74:22, 80:11, 165:8, 165:9, 165:23, 175:4, 175:12, 200:14, 218:19
hall [2] - 150:7, 150:9
hand [8] - 37:15, 38:4, 95:15, 115:25, 148:5, 148:10, 220:24, 267:15
handcuffs [1] - 93:2
handle [3] - 68:2, 68:4, 131:5

handles [1] - 139:15
hands [25] - 7:8, 99:12, 116:18, 118:3, 118:25, 119:2, 119:9, 119:12, 120:16, 121:21, 134:9, 135:6, 138:9, 138:17, 139:21, 141:3, 141:6, 141:10, 141:12, 142:10, 144:12, 144:17, 221:8, 221:12
handset [2] - 135:22, 136:7
handwriting [4] - 39:19, 96:8, 96:9, 96:13
hanging [1] - 231:25
Harbor [1] - 68:23
hard [1] - 196:8
hardly [1] - 240:21
Harry's [6] - 49:11, 49:17, 51:14, 53:19, 63:8
Hauppauge [1] - 2:15
Hayes [14] - 192:8, 192:13, 242:12, 242:16, 242:21, 243:4, 243:11, 244:7, 244:15, 244:18, 245:8, 246:9, 246:15
hd [1] - 145:13
head [28] - 25:19, 61:18, 71:15, 72:15, 127:8, 128:16, 128:19, 129:25, 153:9, 154:14, 177:16, 251:13, 253:15, 253:18, 253:23, 253:24, 253:25, 254:8, 254:12, 255:22, 256:22, 257:13, 257:24, 258:6, 258:15, 259:4, 259:21
Head [1] - 68:22
headache [1] - 201:23
headboard [2] - 126:20, 127:10
heading [2] - 69:6, 69:8
headlights [1] - 262:23
headquarters [7] - 160:10, 170:6, 174:18, 176:25,

177:12, 179:24, 262:18
hear [8] - 8:25, 9:2, 59:14, 149:20, 152:17, 189:5, 190:4, 253:25
heard [17] - 16:9, 21:5, 21:6, 151:17, 156:8, 160:17, 191:4, 191:24, 193:22, 194:11, 200:13, 200:15, 200:19, 200:22, 208:11, 259:22, 259:23
hearing [6] - 7:12, 7:14, 8:21, 33:12, 184:10, 206:3
hearings [2] - 184:8, 199:19
held [6] - 1:21, 4:9, 65:12, 66:6, 101:7, 105:5
hell [4] - 56:24, 70:8, 93:17, 221:18
help [7] - 24:3, 104:10, 104:22, 111:16, 130:19, 239:2, 239:3
helped [3] - 106:24, 115:4, 139:4
helping [3] - 117:24, 118:4, 138:17
helps [1] - 101:13
hereby [2] - 3:7, 267:4
HEREBY [1] - 3:3
herein [2] - 1:18, 267:5
hereto [1] - 3:5
hereunto [1] - 267:14
Hi [1] - 170:22
hide [1] - 90:13
hiding [1] - 219:15
high [7] - 71:3, 73:9, 211:5, 213:11, 231:17, 248:3, 248:15
highly [1] - 170:13
himself [5] - 65:14, 92:20, 142:8, 174:7, 198:25
Hines [3] - 87:16, 87:17, 87:19
Hines's [1] - 87:20
hired [2] - 201:4, 215:17
history [3] - 9:15, 10:11, 91:25
hit [4] - 254:3, 254:8, 254:11, 259:4
hockey [1] - 52:22
hold [4] - 55:23,

61:15, 66:5, 232:5 holy [1] - 61:18 home [7] - 53:20, 70:6, 84:15, 180:8, 225:10, 225:23 homicide [28] - 10:5, 10:6, 10:10, 10:16, 14:21, 14:23, 14:24, 16:4, 16:21, 18:15, 19:4, 23:23, 23:24, 25:4, 26:20, 28:9, 28:14, 30:22, 32:2, 41:4, 67:23, 70:16, 94:10, 120:5, 194:17, 195:16, 197:21, 232:3 Homicide [1] - 76:9 homicides [2] - 10:23, 16:19 honest [1] - 201:10 hopefully [1] - 9:4 hoping [1] - 8:22 hospital [14] - 47:11, 143:16, 160:8, 170:4, 174:19, 175:5, 176:4, 176:8, 176:14, 176:18, 176:19, 176:21, 176:24, 182:6 host [1] - 212:9 hotel [1] - 217:19 hour [7] - 71:24, 74:22, 80:11, 166:2, 175:4, 175:12 hours [4] - 218:19, 218:20, 223:7, 229:3 Hours [1] - 75:13 house [38] - 49:16, 65:11, 65:14, 65:16, 65:18, 66:8, 73:6, 74:4, 78:2, 79:19, 82:15, 82:23, 83:19, 85:5, 85:7, 85:15, 85:22, 86:4, 94:9, 94:11, 97:6, 98:23, 103:19, 111:6, 116:21, 125:11, 126:8, 127:16, 142:14, 142:16, 144:11, 144:20, 150:22, 180:11, 225:23, 228:6, 249:19 houses [2] - 65:10, 65:23 Hudson [1] - 2:8 Hughes [1] - 58:18 hum [2] - 115:6, 132:2 human [1] - 204:23 humidity [3] - 220:11,	220:19, 220:20 hundred [2] - 11:2, 70:22 hundreds [2] - 20:10, 20:12 Huntington [1] - 14:5 hurrying [1] - 69:2 hurt [2] - 15:2, 201:17 husband [1] - 81:4 hypothesize [1] - 97:25 I i.e [1] - 258:22 idea [3] - 73:15, 181:24, 190:5 identification [12] - 39:13, 103:7, 103:23, 114:4, 115:18, 120:9, 133:6, 188:25, 252:6, 254:25, 255:6, 262:16 idiotic [1] - 17:3 immediately [9] - 55:6, 74:19, 74:20, 74:21, 75:17, 77:6, 77:8, 77:9, 78:6 implicates [1] - 221:24 important [2] - 19:3, 245:14 impossible [1] - 164:8 improper [2] - 230:7, 230:21 IN [1] - 267:14 in-depth [1] - 171:21 inappropriate [5] - 77:12, 78:19, 87:8, 88:14, 94:2 Inc [1] - 4:20 included [1] - 177:4 including [2] - 5:10, 67:5 inconsistencies [1] - 229:9 incorrect [2] - 117:22, 239:9 INDEX [2] - 265:2, 265:3 indicated [1] - 108:18 indicates [1] - 244:3 indicating [5] - 104:14, 104:17, 106:10, 257:15, 263:5 indicating [6] - 101:14, 104:11,	104:20, 104:21, 121:20, 257:16 indication [5] - 107:24, 108:8, 109:22, 109:25, 110:7 indicted [5] - 54:6, 54:23, 90:11, 91:5, 92:2 individual [25] - 12:14, 23:11, 23:22, 24:22, 25:10, 31:25, 34:2, 34:14, 34:15, 35:2, 36:8, 40:14, 41:14, 45:10, 45:19, 46:16, 64:10, 128:15, 132:21, 167:16, 192:13, 192:17, 203:15, 212:4, 212:19 individual's [2] - 21:16, 34:10 Individually [1] - 5:9 individuals [22] - 16:6, 18:17, 20:14, 21:12, 22:20, 30:17, 30:22, 34:20, 35:17, 35:25, 41:20, 44:14, 58:15, 81:15, 83:9, 91:4, 91:8, 119:22, 172:25, 173:18, 199:17, 218:8 information [30] - 21:18, 22:13, 23:6, 24:22, 24:23, 25:8, 25:19, 25:21, 25:22, 26:14, 27:3, 31:2, 42:23, 77:24, 93:7, 101:4, 170:17, 170:19, 194:2, 201:12, 201:20, 205:7, 205:8, 209:22, 211:4, 232:17, 242:25, 258:22, 259:3 inhibit [1] - 186:17 inhibited [1] - 186:24 initial [1] - 234:22 initials [1] - 38:11 injured [2] - 66:15, 66:23 injuries [5] - 256:15, 257:12, 259:21, 260:6, 260:13 injury [3] - 150:22, 152:23, 256:21 Inn [1] - 48:20 innocent [19] - 31:13, 89:16, 89:18, 89:21, 89:24, 91:5, 91:8,	91:13, 91:25, 111:17, 127:4, 149:10, 226:24, 227:4, 227:16, 227:17, 230:2, 230:3, 232:17 inside [3] - 88:16, 145:17, 177:16 instances [1] - 47:19 instep [3] - 116:20, 118:7, 121:24 instincts [1] - 42:17 instructed [1] - 108:10 instructions [1] - 105:10 intelligence [2] - 32:5, 34:8 intelligent [1] - 32:19 interact [1] - 46:15 interaction [2] - 170:20, 172:24 interacts [1] - 86:22 interest [8] - 9:5, 23:12, 23:15, 23:24, 23:25, 24:10, 41:3, 206:25 interested [1] - 267:12 interesting [1] - 138:6 interpretations [1] - 88:8 interrogate [5] - 40:11, 44:11, 177:21, 179:14, 179:25 interrogated [1] - 262:19 interrogating [7] - 35:17, 35:24, 36:5, 41:24, 44:16, 44:19, 187:2 interrogation [17] - 25:17, 35:16, 35:20, 43:8, 43:13, 43:23, 44:6, 45:22, 45:23, 59:9, 89:12, 177:24, 178:16, 184:16, 185:18, 186:18, 187:10 interrogations [2] - 30:16, 40:19 interview [12] - 12:4, 25:7, 25:16, 42:23, 45:21, 71:22, 72:8, 75:13, 89:11, 156:18, 247:20 interviewed [8] - 29:3, 32:2, 75:20, 76:16, 76:23, 118:21, 215:23, 215:24 interviewer [1] - 71:24	interviewing [11] - 10 15:21, 15:23, 16:5, 21:16, 22:4, 25:9, 27:15, 44:14, 44:15, 45:20, 169:24 interviews [3] - 7:24, 8:4, 8:7 introduce [1] - 4:21 introduced [2] - 169:21, 174:7 investigate [6] - 69:8, 93:4, 188:10, 188:12, 188:14, 190:17 investigated [4] - 188:18, 189:9, 189:12, 218:16 investigating [2] - 15:15, 194:25 investigation [23] - 6:24, 7:5, 21:20, 28:12, 28:13, 28:17, 28:18, 28:25, 29:4, 29:8, 29:12, 29:14, 30:25, 37:11, 67:11, 76:18, 77:5, 89:11, 93:8, 134:2, 177:19, 214:8, 240:22 investigations [4] - 16:21, 73:12, 73:14, 167:13 investigator [4] - 55:2, 94:10, 180:17, 217:6 investors [3] - 63:6, 63:7, 64:22 invited [1] - 49:4 involved [33] - 16:6, 19:18, 31:11, 46:12, 50:11, 56:13, 56:19, 56:25, 73:16, 74:11, 75:16, 107:23, 159:15, 159:20, 159:24, 166:6, 177:22, 177:25, 196:12, 197:12, 198:4, 198:24, 199:3, 199:7, 203:17, 205:15, 206:10, 206:24, 207:6, 208:2, 211:10, 213:3, 213:11 involvement [1] - 202:18 IQ [2] - 31:21, 35:25 ironically [1] - 225:16 irreconcilable [1] - 232:25 IS [3] - 3:3, 3:8, 3:12 Island [5] - 73:25,
---	--	---	--	--

74:6, 125:18, 193:15, 231:19 isn't [1] - 175:9 issue [1] - 213:23 IT [3] - 3:3, 3:8, 3:12	209:8 Joey [3] - 190:6, 190:7, 193:5 John [1] - 48:14 JOHN [2] - 1:8 join [1] - 49:5 Judge [1] - 206:20 judge's [1] - 55:7 judgement [3] - 45:17, 216:10, 240:4 judgements [1] - 46:5 judgments [1] - 46:14 Julie [2] - 219:16, 219:21 June [2] - 59:4, 125:25 jury [1] - 90:10	killer [1] - 11:16 kind [42] - 9:8, 32:17, 33:10, 38:25, 49:23, 55:18, 58:7, 60:11, 72:12, 73:22, 94:8, 98:6, 103:18, 105:5, 110:16, 111:9, 111:25, 130:18, 140:13, 154:13, 164:3, 179:3, 197:14, 197:24, 201:5, 202:14, 207:10, 207:23, 209:6, 220:11, 225:4, 232:16, 234:15, 234:17, 244:13, 246:20, 247:5, 247:13, 248:9, 249:18, 262:22 kinds [2] - 46:5, 224:21 Kirsten [2] - 212:20 kitchen [7] - 82:6, 98:24, 99:20, 100:6, 100:7, 100:10, 225:13 Klein [3] - 190:20, 190:22, 190:23 knife [5] - 100:9, 100:19, 103:2, 103:9, 253:3 knocked [2] - 51:18, 53:2 knowing [1] - 25:13 knowledge [2] - 58:18, 86:21 known [5] - 70:23, 166:8, 178:25, 212:25, 224:14 knows [2] - 202:2, 219:21 knuckles [1] - 261:12 KOSCIUK [1] - 1:7	234:24, 237:25 late [2] - 197:14, 202:24 laugh [2] - 208:21, 216:9 laughing [1] - 213:4 LAW [1] - 2:14 law [6] - 13:14, 17:13, 18:21, 23:21, 166:4, 204:18 Law [1] - 1:20 lawsuits [4] - 56:12, 56:13, 56:18, 57:3 lawyer [16] - 24:2, 167:17, 167:19, 168:9, 168:11, 169:8, 171:11, 174:8, 182:5, 184:2, 184:4, 190:12, 198:15, 241:17 lawyering [3] - 167:3, 167:5, 173:21 lawyers [3] - 46:20, 54:10, 198:4 laying [1] - 150:9 lays [1] - 104:7 lead [3] - 10:24, 11:2, 11:18 leading [3] - 26:23, 27:4, 27:10 leads [1] - 54:22 Leahy [2] - 70:9, 72:24 learn [5] - 31:22, 163:24, 172:18, 191:20, 191:23 learned [6] - 84:24, 85:8, 85:11, 159:7, 159:10, 248:22 learning [1] - 200:11 least [4] - 77:21, 88:21, 146:9, 253:4 leave [5] - 86:8, 128:10, 128:19, 141:11, 237:18 leaving [2] - 51:15, 184:23 led [1] - 204:4 Lee [1] - 2:15 left [28] - 17:15, 37:15, 52:18, 53:15, 84:19, 84:23, 103:16, 111:5, 115:9, 115:23, 115:24, 116:2, 116:11, 116:18, 118:3, 121:24, 130:5, 142:17, 168:8, 180:8, 180:10, 253:24, 255:22, 256:22, 257:12,	257:24, 259:4 left-hand [1] - 37:15 leg [1] - 113:22 legal [2] - 23:24, 164:4 legally [1] - 163:15 legs [2] - 12:10, 116:3 length [1] - 215:25 lengthy [2] - 234:5, 261:23 Lenny [2] - 211:18, 211:23 less [1] - 185:13 level [4] - 18:11, 23:10, 24:16, 32:5 liar [2] - 232:12, 232:13 lie [15] - 194:7, 220:9, 221:22, 222:5, 223:3, 227:13, 227:19, 234:17, 236:7, 236:24, 237:5, 237:23, 238:6, 238:9, 241:6 lied [2] - 105:11, 184:4 lies [4] - 194:6, 220:9, 221:24, 243:15 life [6] - 66:20, 188:8, 193:23, 204:23, 231:10, 250:15 lifted [1] - 113:3 light [23] - 51:5, 99:7, 99:12, 123:12, 123:20, 124:14, 124:20, 124:22, 127:19, 128:5, 128:9, 128:12, 147:7, 147:12, 147:15, 147:19, 147:23, 148:3, 148:10, 148:11, 150:10, 256:10, 256:11 lighting [3] - 126:11, 127:13, 134:17 lights [3] - 51:6, 51:8, 51:10 likely [5] - 33:23, 34:20, 35:2, 147:23 limit [1] - 129:10 limited [2] - 109:13, 250:11 Lincoln [1] - 249:25 line [6] - 90:3, 100:16, 109:8, 120:12, 120:13, 247:15 linen [2] - 104:21, 157:6 lines [4] - 171:3, 235:7, 236:15, 236:17
J	K	L		
jail [2] - 12:11, 89:18 James [12] - 4:4, 5:23, 14:10, 14:12, 14:15, 14:18, 53:25, 54:2, 54:4, 68:24, 266:4 JAMES [3] - 1:7, 1:17, 264:9 January [1] - 267:15 Jeep [3] - 51:15, 51:17, 52:3 Jeff [1] - 48:21 Jefferson [1] - 73:23 Jerry [43] - 159:15, 159:19, 159:23, 160:20, 162:10, 162:25, 163:4, 163:6, 175:7, 175:10, 175:16, 176:25, 177:4, 180:6, 180:8, 180:22, 189:25, 193:4, 194:14, 201:4, 201:9, 201:12, 201:16, 205:13, 205:18, 205:24, 207:2, 209:13, 209:15, 209:18, 210:2, 210:6, 211:19, 211:23, 211:25, 212:13, 212:15, 212:24, 214:9, 215:2, 215:15, 215:19, 216:19 Jerry's [1] - 193:2 Jersey [1] - 52:22 jersey [1] - 52:25 Jimmy [4] - 58:18, 64:25, 232:5, 232:10 job [20] - 10:15, 13:19, 15:2, 15:20, 17:8, 19:22, 41:8, 41:19, 44:13, 46:6, 59:19, 59:20, 67:2, 179:19, 179:20, 179:24, 192:6, 195:17, 218:2 Joe [12] - 61:12, 188:6, 188:9, 189:9, 189:12, 189:16, 190:10, 199:16, 199:19, 203:18,	Kathy [1] - 4:14 KATHY [1] - 2:18 Keahon [4] - 54:11, 54:12, 198:14, 199:3 Kearon [1] - 4:11 KEARON [1] - 2:3 Keating [1] - 64:25 keep [3] - 9:4, 177:9, 208:9 Kent [1] - 193:6 kept [2] - 96:5, 137:23 Kerley [4] - 131:16, 131:23, 134:21, 135:3 Kerrington's [1] - 212:5 Kevin [6] - 14:10, 14:12, 14:15, 14:25, 195:16, 195:22 key [4] - 119:8, 139:7, 140:24 kick [1] - 53:2 kicked [2] - 85:15, 86:4 kid [17] - 59:15, 59:24, 60:11, 78:7, 87:9, 88:23, 173:9, 173:12, 173:25, 174:10, 179:13, 179:25, 194:13, 223:17, 226:18, 231:18, 244:21 kid's [2] - 61:6, 61:8 kids [2] - 216:3, 216:7 kill [4] - 146:17, 146:20, 163:2, 163:17 killed [6] - 58:21, 84:5, 88:24, 89:13, 179:15, 195:25	labels [1] - 45:2 lack [2] - 86:20, 86:21 lady [2] - 11:12, 195:25 language [4] - 30:6, 61:4, 177:9, 186:25 last [14] - 53:16, 65:2, 65:11, 138:19, 160:20, 165:19, 166:22, 203:24, 205:16, 212:14, 216:21, 234:4,		

list^[1] - 206:22
 listed^[1] - 34:18
 listen^[2] - 60:23, 79:9
 listened^[1] - 158:14
 listening^[1] - 159:8
 literally^[1] - 11:21,
 44:18, 74:4, 131:18,
 132:20, 141:3,
 191:7, 197:20,
 214:15, 254:2,
 258:22
 litigation^[1] - 57:2
 live^[3] - 68:9, 82:15,
 228:22
 lived^[4] - 68:22,
 147:22, 191:14,
 213:9
 lives^[5] - 231:18,
 249:10, 249:11,
 249:14
 living^[2] - 49:14,
 83:18
 LLP^[2] - 2:3, 2:7
 LN^[1] - 266:6
 loaded^[1] - 56:10
 located^[1] - 4:16
 lock^[4] - 89:18, 93:3,
 139:17, 223:25
 locked^[4] - 47:8,
 52:10, 52:15, 89:19
 log^[3] - 51:19, 75:7
 logical^[1] - 150:14
 logs^[1] - 96:2
 Lombrano^[3] -
 211:18, 211:23,
 212:2
 look^[35] - 8:3, 34:19,
 37:7, 53:12, 74:23,
 74:24, 76:14, 87:19,
 88:3, 88:4, 101:11,
 101:12, 105:17,
 111:23, 120:10,
 128:16, 129:6,
 131:3, 133:7,
 134:14, 135:13,
 135:20, 135:21,
 153:17, 156:17,
 206:11, 207:25,
 216:10, 221:13,
 228:4, 252:7,
 257:20, 262:24,
 263:3, 263:8
 looked^[20] - 7:19,
 12:5, 97:23, 98:5,
 98:20, 118:19,
 124:6, 126:13,
 128:7, 132:10,
 155:11, 251:18,
 252:21, 254:16,
 254:17, 254:20,

255:18, 260:14,
 263:12, 263:14
 looking^[32] - 34:19,
 36:23, 50:15, 50:16,
 60:10, 60:16, 80:10,
 88:12, 113:24,
 115:11, 125:2,
 126:18, 126:20,
 127:5, 127:8, 127:9,
 137:18, 137:24,
 138:4, 147:16,
 196:18, 235:24,
 236:5, 238:18,
 255:21, 256:20,
 257:4, 257:7, 258:6,
 258:14, 262:21
 looks^[4] - 61:13,
 96:16, 127:14, 136:5
 loser^[1] - 47:10
 loss^[1] - 208:25
 losses^[1] - 55:21
 lost^[4] - 47:11, 47:13,
 218:2, 218:6
 loudly^[1] - 9:5
 loved^[1] - 118:15
 low^[2] - 31:20, 35:25
 Lucchese^[1] - 243:4
 Lumbar^[1] - 225:17
 lunch^[4] - 102:11,
 102:12, 102:17,
 106:7
 lying^[3] - 129:23,
 229:22, 229:25

M

mad^[1] - 195:5
 magnifying^[4] -
 130:21, 135:19,
 135:21, 136:18
 Mahoney^[3] - 11:20,
 48:12, 49:4
 maid^[1] - 219:24
 maintain^[1] - 96:3
 maitre'^[1] - 212:9
 maker^[1] - 90:22
 mall^[4] - 63:4, 63:7,
 63:12, 63:20
 man^[3] - 61:13,
 172:12, 215:25
 managed^[2] - 13:22,
 225:18
 manager^[1] - 212:9
 March^[1] - 10:8
 Marine^[1] - 65:24
 Marines^[3] - 48:19,
 231:17, 231:24
 marines^[1] - 49:7
 marines'^[1] - 49:2

MARION^[2] - 2:3, 2:6
 Marion^[1] - 4:11
 mark^[5] - 39:10,
 115:16, 188:21,
 188:22, 254:23
 marked^[27] - 37:5,
 39:8, 39:13, 39:15,
 76:4, 95:5, 103:5,
 103:7, 103:21,
 103:23, 103:25,
 113:25, 114:4,
 115:18, 120:7,
 120:9, 133:3, 133:5,
 133:8, 188:24,
 252:3, 252:5, 252:8,
 254:25, 255:5,
 262:13, 262:15
 marriage^[1] - 267:10
 married^[1] - 65:13
 marshall^[1] - 48:11
 MARTIN^[2] - 1:4, 2:19
 Martin^[10] - 4:5, 4:25,
 36:12, 86:14,
 133:11, 166:12,
 207:18, 247:21,
 247:22, 266:2
 Marty^[161] - 61:6,
 61:8, 61:9, 61:10,
 74:11, 75:16, 75:21,
 76:18, 77:21, 79:18,
 79:24, 80:6, 80:7,
 80:8, 80:22, 84:24,
 85:9, 85:12, 86:2,
 86:22, 88:13, 92:11,
 94:22, 100:25,
 101:17, 105:3,
 106:21, 107:23,
 108:14, 109:4,
 109:9, 110:9,
 110:14, 111:11,
 112:12, 112:19,
 114:20, 115:4,
 115:5, 115:23,
 116:6, 116:10,
 116:14, 116:15,
 116:21, 117:2,
 117:14, 118:24,
 118:25, 122:4,
 122:19, 125:9,
 126:12, 126:18,
 130:6, 135:14,
 137:3, 137:15,
 138:7, 138:16,
 139:11, 141:22,
 143:10, 147:22,
 148:2, 148:17,
 150:4, 151:3,
 151:16, 153:13,
 154:2, 154:8, 155:5,
 155:10, 155:18,

156:11, 157:9,
 158:8, 158:9,
 158:15, 158:23,
 159:2, 159:11,
 160:3, 160:5, 160:9,
 168:10, 168:14,
 168:16, 169:20,
 169:24, 170:2,
 170:9, 170:14,
 170:16, 170:21,
 171:4, 171:5, 171:9,
 171:18, 173:20,
 174:14, 174:17,
 175:18, 175:21,
 176:3, 176:13,
 176:17, 176:23,
 177:6, 179:5,
 180:22, 181:4,
 182:3, 182:12,
 183:13, 186:2,
 190:3, 192:18,
 201:17, 212:23,
 214:25, 218:22,
 219:2, 219:7,
 219:20, 220:9,
 220:10, 220:22,
 222:5, 222:15,
 223:20, 226:10,
 227:17, 228:8,
 230:12, 236:21,
 239:6, 239:11,
 240:23, 240:25,
 241:10, 241:13,
 241:24, 244:7,
 244:8, 244:10,
 244:19, 245:6,
 245:12, 245:22,
 246:18, 246:19,
 246:21, 249:9,
 252:15, 262:4,
 262:18
 Marty's^[39] - 60:23,
 61:5, 74:3, 98:10,
 99:6, 99:16, 104:19,
 106:20, 106:24,
 115:25, 122:7,
 126:5, 131:24,
 138:22, 146:24,
 147:8, 149:8, 153:5,
 155:4, 160:21,
 165:20, 169:7,
 172:19, 189:21,
 190:11, 190:14,
 192:14, 204:5,
 205:16, 213:22,
 216:21, 219:24,
 221:7, 234:21,
 237:23, 252:11,
 252:21, 260:23,
 263:3
 master^[7] - 98:13,

99:21, 99:22, 99:25, 1 2
 104:13, 122:24,
 261:4
 match^[1] - 220:2
 material^[1] - 6:14
 matter^[22] - 4:4,
 17:10, 32:15, 78:14,
 89:23, 90:17,
 113:20, 140:2,
 171:14, 203:19,
 205:23, 206:4,
 206:8, 207:16,
 207:19, 208:20,
 212:16, 214:24,
 216:4, 218:24,
 218:25, 267:13
 matters^[1] - 206:13
 mature^[2] - 33:22,
 35:10
 McCready^[24] - 1:7,
 1:17, 4:4, 5:11, 5:23,
 6:3, 14:10, 14:11,
 14:13, 14:18, 39:14,
 63:15, 76:7, 76:10,
 77:4, 90:16, 103:24,
 187:12, 189:4,
 196:11, 196:16,
 196:20, 264:9, 266:4
 McLELHONE^[1] - 1:8
 McSweeney^[1] -
 13:18
 mean^[36] - 7:20,
 17:13, 23:9, 24:12,
 24:16, 25:5, 35:7,
 43:10, 43:15, 43:19,
 77:25, 87:15, 92:16,
 92:24, 97:10,
 124:14, 125:23,
 137:3, 139:22,
 141:3, 143:19,
 167:6, 174:24,
 194:22, 202:7,
 205:17, 207:10,
 214:4, 220:4,
 227:11, 227:25,
 241:11, 249:8,
 256:7, 258:2, 263:23
 meaning^[1] - 90:22
 means^[10] - 16:24,
 24:8, 27:6, 27:7,
 41:7, 141:9, 141:10,
 167:3, 167:7, 208:25
 meant^[2] - 35:9,
 154:13
 meantime^[1] - 40:8
 media^[4] - 7:24, 8:3,
 8:4, 8:6
 medical^[1] - 107:13
 medication^[1] -
 195:24

meeting [1] - 82:6	222:20	66:5, 66:7	171:22, 171:25,	172:10	13
member [1] - 180:19	mine [4] - 12:7, 63:6,	Morty [1] - 79:21	173:5, 185:5,	murderer [2] - 189:11,	
members [3] - 6:24,	196:21	most [6] - 20:13,	185:14, 187:3,	238:11	
82:7, 166:3	minute [8] - 55:22,	26:24, 26:25, 43:25,	187:15, 188:4,	murders [15] - 11:2,	
memorable [1] - 11:8	55:23, 98:20,	47:5, 256:21	188:20, 189:4,	11:17, 146:6,	
memory [11] - 71:18,	112:14, 134:10,	mother [21] - 59:16,	189:13, 193:20,	146:16, 175:3,	
74:15, 76:15,	193:18, 227:9, 236:9	59:19, 59:21, 84:5,	202:17, 203:2,	175:22, 175:24,	
230:19, 232:19,	minutes [3] - 69:4,	88:24, 98:14,	203:10, 203:23,	177:22, 178:2,	
233:2, 234:19,	109:10, 123:19	137:18, 137:24,	204:8, 204:10,	194:25, 207:7,	
238:14, 246:25,	misdemeanor [1] -	146:17, 146:20,	205:9, 206:14,	208:2, 209:16,	
251:25, 252:10	55:23	148:19, 149:18,	207:3, 207:8,	209:23, 213:17	
mental [2] - 97:12,	mistake [2] - 67:15,	149:22, 150:9,	210:17, 214:5,	Murphy [1] - 13:18	
99:3	87:9	150:12, 152:23,	215:6, 216:25,	must [1] - 196:7	
mentally [1] - 97:22	mistaken [1] - 212:12	204:24, 204:25,	219:4, 222:2,	Mutchuler [1] - 219:16	
mention [1] - 149:22	mistakenly [2] -	205:3, 253:4, 253:10	223:12, 224:24,		
mentioned [7] - 1:21,	121:19, 121:22	mother's [14] - 117:5,	226:25, 227:12,		
46:18, 56:5, 58:10,	mistakes [1] - 38:10	117:7, 126:6, 127:6,	230:4, 230:20,		
176:8, 176:19	mixed [2] - 196:16,	128:19, 145:13,	231:5, 232:4, 233:5,		
mere [1] - 246:14	196:17	145:16, 146:15,	233:15, 233:25,		
messed [1] - 163:11	mob [1] - 242:16	147:3, 147:7,	234:10, 234:12,		
met [4] - 188:9, 193:8,	model [2] - 104:2,	149:14, 152:22,	236:11, 236:13,		
194:12, 250:19	104:6	155:15, 220:23	238:15, 239:24,		
Michael [3] - 160:12,	moisture [2] - 134:9,	motion [1] - 51:9	242:23, 243:6,		
167:19, 170:21	135:5	motive [1] - 22:13	243:9, 244:16,		
mid [2] - 197:18,	mom [2] - 145:18,	motorcycle [1] - 201:5	245:10, 245:25,		
197:19	145:20	mouth [5] - 153:5,	246:22, 247:7,		
mid-eighties [2] -	mom's [1] - 131:24	154:14, 190:15,	252:2, 254:14,		
197:18, 197:19	moment [3] - 86:14,	202:20, 203:4	254:22, 255:2,		
Midland [1] - 65:24	115:5, 172:21	move [5] - 61:23,	256:5, 256:12,		
might [20] - 11:5,	money [24] - 48:19,	122:14, 174:12,	256:25, 258:8,		
17:15, 48:6, 57:7,	65:8, 81:5, 81:7,	195:12, 217:24	259:8, 259:11,		
60:17, 70:9, 70:23,	161:5, 161:15,	moved [6] - 66:10,	259:13, 260:2,		
75:18, 97:24, 97:25,	162:6, 162:19,	68:5, 101:19,	260:8, 261:19,		
138:11, 138:13,	165:21, 190:2,	108:14, 112:20,	261:24, 262:12,		
138:22, 159:25,	190:13, 192:22,	114:10	262:25, 263:25		
160:16, 162:21,	201:17, 201:19,	moves [1] - 163:18	MS [3] - 5:4, 88:18,		
198:17, 210:8,	202:9, 202:23,	moving [5] - 68:6,	113:23		
234:18	206:2, 208:8, 209:7,	68:8, 112:4, 121:8,	MTV [1] - 128:3		
Mike [15] - 67:21,	209:12, 216:4,	259:16	multiple [3] - 166:24,		
67:23, 67:24,	217:11, 217:21,	MR [121] - 4:24, 5:2,	203:16, 207:9		
170:23, 171:10,	242:14	5:7, 5:20, 6:2, 6:5,	murder [37] - 12:14,		
171:18, 172:5,	month [1] - 211:9	32:7, 32:11, 36:20,	19:18, 24:8, 30:24,		
172:13, 172:19,	months [2] - 67:7,	36:25, 37:3, 39:7,	67:18, 73:12, 73:14,		
173:2, 173:8,	82:22	57:20, 59:12, 79:14,	79:20, 79:25, 84:25,		
173:24, 176:19,	Moriarty [3] - 75:13,	81:25, 83:14, 86:23,	116:22, 129:2,		
182:4	93:20, 188:16	87:12, 90:2, 102:10,	170:10, 177:18,		
Mike's [1] - 60:3	morning [17] - 6:2,	102:22, 103:4,	180:5, 180:10,		
military [2] - 13:24,	6:4, 8:10, 68:11,	103:20, 109:2,	193:3, 193:4, 193:5,		
13:25	123:12, 123:17,	115:15, 119:15,	193:7, 193:9,		
MILLER [1] - 2:10	123:23, 124:4,	120:6, 124:19,	199:21, 203:4,		
million [1] - 48:4	124:15, 148:3,	133:2, 140:6, 140:9,	203:17, 204:24,		
mind [21] - 12:12,	148:19, 156:23,	145:23, 148:6,	206:7, 206:24,		
12:23, 45:15, 45:16,	180:9, 219:20,	150:16, 153:6,	208:14, 209:2,		
49:13, 67:19, 74:19,	220:14, 240:25,	158:17, 158:19,	215:16, 215:17,		
83:8, 85:20, 92:12,	263:19	158:20, 160:24,	220:3, 222:15,		
98:8, 128:22,	moron [1] - 193:6	161:18, 162:23,	240:13		
128:25, 129:17,	morons [1] - 217:4	162:24, 163:12,	murdered [8] - 15:11,		
153:4, 163:9,	Morris [1] - 48:15	164:11, 164:14,	79:25, 116:22,		
164:25, 171:24,	mortgage [6] - 65:12,	165:15, 166:7,	118:10, 126:25,		
179:13, 209:9,	65:17, 65:21, 66:4,	167:21, 168:7,	145:18, 145:20,		

N

Name [1] - 266:2
name [26] - 4:14, 5:21,
11:15, 14:10, 14:12,
17:25, 45:3, 49:20,
49:21, 50:24, 55:7,
61:6, 61:9, 61:12,
63:9, 63:11, 63:14,
65:2, 65:20, 189:17,
190:20, 193:7,
208:10, 211:17,
214:20, 219:19
named [5] - 5:9,
49:19, 196:20,
225:16, 238:10
narcotics [12] - 9:24,
15:5, 15:10, 194:21,
196:12, 196:19,
196:22, 196:25,
197:13, 198:5,
198:16
Nassau [1] - 225:17
natural [1] - 35:12
nature [1] - 45:13
near [1] - 150:21
necessarily [16] -
33:3, 33:4, 33:18,
34:3, 34:6, 42:9,
83:22, 109:5, 137:2,
137:4, 139:19,
139:22, 139:24,
239:9
neck [6] - 105:13,
107:8, 110:24,
112:6, 114:25,
138:21
need [9] - 8:21, 15:25,
18:15, 18:16, 18:18,
25:4, 36:9, 40:7,
149:21
needed [3] - 238:25,
239:2
needless [1] - 12:8

14

108:9, 108:11,
156:4, 156:12,
156:22, 158:2,
158:10, 158:13
opinion [3] - 32:14,
239:18, 240:5
opportunity [1] -
148:16
opposed [3] - 36:5,
65:6, 125:25
opposite [1] - 24:17
oral [1] - 183:5
Order [1] - 1:21
order [2] - 102:16,
222:19
ordering [5] - 242:8,
242:11, 244:8,
244:19, 246:20
organized [2] - 15:16,
193:17
orient [1] - 104:10
orientate [1] - 115:14
original [3] - 14:21,
119:6, 156:18
originally [2] - 68:4,
69:12
outcome [1] - 267:13
outside [7] - 50:12,
51:2, 51:14, 60:24,
61:14, 78:4, 119:10
overdose [1] - 198:11
overlooking [1] -
249:19
overstate [1] - 41:11
overstep [1] - 17:9
owe [4] - 162:12,
163:15, 163:16,
165:7
owed [2] - 161:16,
164:7
own [13] - 30:7, 35:7,
41:15, 96:6, 103:11,
147:24, 152:3,
186:23, 193:11,
214:16, 230:12,
232:18, 234:18
owned [6] - 49:16,
50:20, 63:3, 64:9,
165:9, 213:7
owner [1] - 213:15
owns [1] - 165:23

P

p.m [10] - 57:25, 58:5,
102:14, 102:19,
167:24, 168:4,
233:18, 233:23,
264:4, 264:5

Pacific [1] - 11:23
package [1] - 225:15
pad [2] - 96:16, 96:19
Page [6] - 120:10,
236:5, 236:15,
247:13, 265:4, 265:9
page [7] - 36:24,
69:21, 76:5, 96:24,
119:16, 157:3, 157:4
pages [1] - 39:21
paid [9] - 9:6, 9:7,
48:23, 208:13,
208:18, 217:11,
217:16, 217:18,
217:21
paint [1] - 141:7
Palermo [1] - 61:10
palm [1] - 120:15
palms [5] - 116:18,
118:3, 118:25,
138:8, 139:5
panicked [1] - 151:23
pants [1] - 53:7
paper [1] - 63:16
Parade [1] - 48:10
parade [1] - 49:8
paragraph [3] - 76:15,
236:6, 247:18
parallels [1] - 43:22
pardon [2] - 29:9,
169:2
parent [2] - 150:6,
150:22
parents [23] - 77:13,
78:9, 79:25, 89:14,
107:2, 107:5,
116:23, 126:13,
126:19, 126:24,
127:5, 128:18,
144:4, 152:12,
170:10, 179:15,
192:18, 216:21,
228:5, 228:25,
232:2, 250:19,
252:25
park [2] - 49:6, 51:17
part [36] - 9:6, 13:18,
15:20, 18:13, 20:13,
24:5, 24:6, 24:20,
25:3, 26:19, 26:24,
26:25, 35:12, 41:19,
46:2, 46:6, 46:19,
52:14, 67:16, 68:6,
73:22, 77:25, 86:3,
106:15, 111:15,
111:18, 129:14,
155:21, 167:12,
183:17, 192:6,
194:20, 204:9,
215:22, 239:16,

250:10
particular [5] - 28:24,
34:3, 60:2, 67:11,
167:14
particularly [4] - 11:8,
18:14, 41:6, 77:12
parties [3] - 3:4, 4:22,
267:10
partner [3] - 8:11,
11:20, 198:11
Paschal [1] - 4:14
PASCHAL [1] - 2:18
passed [3] - 198:11,
213:23, 214:3
Pat [3] - 48:12, 49:4,
60:3
Paterno [2] - 61:10,
61:12
Patrick's [3] - 48:9,
48:10, 48:17
Patty [1] - 11:11
patty's [1] - 49:5
Patty's [1] - 52:11
pay [6] - 9:3, 35:23,
49:2, 218:4, 218:5
payment [4] - 162:16,
162:19, 162:21,
162:22
PBA [3] - 12:25, 48:25,
69:22
peer [1] - 35:8
pen [1] - 139:9
pennies [1] - 163:25
people [49] - 18:4,
18:9, 23:18, 31:19,
31:20, 31:21, 41:12,
41:13, 42:21, 43:6,
43:11, 44:11, 45:2,
49:4, 50:15, 55:4,
61:24, 63:17, 71:3,
73:6, 73:7, 78:2,
87:25, 89:18, 89:24,
90:6, 91:14, 91:15,
91:17, 91:20, 91:25,
118:18, 118:21,
159:13, 161:13,
163:17, 166:24,
179:4, 179:20,
189:10, 205:14,
206:9, 206:23,
211:11, 213:5,
213:12, 219:8,
219:11
percent [5] - 16:18,
16:25, 17:6, 70:22,
216:14
perfect [6] - 42:18,
42:19, 90:18, 91:22,
216:16, 216:17
perfectly [1] - 256:11

perhaps [3] - 32:3,
35:25, 123:20
period [3] - 155:19,
161:6, 182:18
person [35] - 22:10,
22:25, 24:17, 26:9,
26:11, 31:12, 32:6,
72:20, 86:13, 88:12,
90:24, 120:14,
131:23, 150:14,
160:21, 165:19,
166:22, 183:25,
190:19, 205:16,
209:18, 210:16,
211:17, 222:20,
227:4, 227:16,
230:3, 232:3,
234:25, 238:2,
238:24, 240:23,
242:13, 245:9, 258:7
personal [2] - 41:15,
57:14
perspective [1] -
246:24
Pfalzgraf [3] - 160:8,
166:15, 166:18
PG [1] - 266:6
phase [1] - 248:20
phenomenon [2] -
30:13, 33:10
Phil [1] - 208:22
phone [45] - 51:2,
51:4, 83:17, 99:24,
100:2, 130:19,
131:2, 131:5, 132:9,
132:23, 134:8,
134:23, 135:5,
135:7, 135:22,
136:9, 136:17,
136:23, 140:21,
140:25, 141:23,
141:24, 148:25,
149:7, 150:12,
152:4, 152:5, 153:3,
153:10, 154:9,
154:11, 154:17,
154:18, 154:22,
154:23, 155:7,
155:11, 155:13,
155:14, 155:15,
157:6, 218:22,
220:2, 229:14
phones [1] - 99:20
phonetic [9] - 15:8,
47:23, 49:16, 68:7,
69:17, 103:13,
191:18, 219:17,
225:4
photo [1] - 256:17
photograph [7] -

104:2, 104:6,
115:14, 134:14,
134:18, 136:13,
257:18
Photograph [5] -
265:11, 265:12,
265:13, 265:14,
265:19
photographer [1] -
259:18
photographs [10] -
7:20, 7:21, 102:12,
133:17, 133:19,
133:23, 255:8,
256:9, 260:7, 260:15
Photographs [4] -
265:16, 265:18,
265:20, 265:21
photos [2] - 6:19,
256:6
phrase [7] - 21:4,
21:6, 33:2, 40:12,
167:3, 167:5, 260:13
physical [3] - 112:6,
122:9, 221:23
pick [2] - 8:23, 233:15
picked [3] - 140:19,
150:11, 214:12
picking [1] - 141:14
picks [2] - 134:10,
135:7
picture [13] - 97:7,
97:11, 97:12, 97:23,
100:13, 102:24,
111:23, 131:3,
134:19, 190:9,
256:18, 257:4, 263:4
pictures [13] - 49:13,
102:9, 135:20,
252:3, 255:11,
255:16, 255:18,
255:19, 257:8,
258:14, 262:9,
262:18, 263:11
piece [3] - 60:20,
162:9, 254:2
pillow [3] - 107:7,
138:18, 157:7
pillows [2] - 126:21,
127:10
pitts [1] - 55:8
Pitts [2] - 55:9, 198:22
pizza [2] - 63:21,
213:15
place [31] - 1:22,
11:23, 15:9, 25:17,
28:18, 39:3, 49:24,
50:24, 59:2, 60:3,
63:21, 94:15, 97:8,
98:9, 101:8, 105:17,

105:20, 107:20,
112:8, 112:10,
122:8, 129:17,
149:9, 151:20,
153:18, 185:2,
204:15, 212:14,
219:2, 221:16
placed [2] - 28:8,
28:13
plaintiff [1] - 164:10
Plaintiff [7] - 1:5, 1:19,
2:4, 2:7, 2:11, 2:19,
4:25
Plaintiffs [19] - 39:12,
39:15, 76:4, 103:6,
103:22, 103:25,
113:25, 114:3,
115:17, 120:8,
133:4, 133:8,
188:23, 252:4,
252:8, 254:24,
255:4, 262:14, 265:9
planet [1] - 246:8
plausible [2] - 141:19,
141:20
play [1] - 184:15
played [2] - 189:3,
189:7
players [1] - 160:19
plays [1] - 124:18
plenty [1] - 128:12
pocket [3] - 145:4,
145:17, 146:15
point [47] - 18:13,
45:6, 62:18, 84:17,
84:22, 93:9, 101:6,
101:20, 123:22,
124:22, 125:6,
125:14, 126:12,
130:4, 135:13,
138:3, 156:8, 161:4,
167:10, 168:13,
168:15, 170:8,
174:11, 177:24,
178:14, 179:5,
180:7, 183:19,
202:16, 216:23,
222:12, 222:14,
223:23, 228:5,
234:21, 235:12,
235:19, 235:22,
236:11, 237:16,
238:19, 244:6,
251:2, 253:8,
253:13, 261:20
Point [5] - 48:18,
49:12, 51:24, 64:4,
64:6
pointed [4] - 8:20,
16:22, 50:18, 111:9

pointing [2] - 88:24,
166:24
poker [4] - 160:19,
211:5, 211:10,
213:12
police [54] - 9:7, 9:12,
9:16, 12:19, 13:7,
13:16, 13:20, 13:21,
14:7, 17:15, 20:7,
21:5, 30:5, 52:5,
52:6, 59:5, 59:7,
62:3, 62:15, 79:23,
80:7, 84:8, 90:8,
90:21, 91:7, 109:10,
109:16, 110:3,
113:22, 116:14,
116:23, 119:2,
119:25, 122:10,
133:19, 133:25,
142:17, 143:7,
144:10, 159:14,
159:22, 160:9,
160:15, 166:9,
180:17, 181:2,
183:10, 185:12,
194:21, 220:5,
234:25, 238:2,
241:16, 246:9
POLICE [1] - 1:8
Police [6] - 9:19, 9:21,
10:11, 14:5, 76:8,
120:11
poli [1] - 58:8
Pollack [3] - 5:2,
148:15, 160:18
POLLACK [3] - 2:12,
5:2, 36:25
polygraph [5] -
213:19, 213:22,
214:2, 235:15,
235:18, 237:5
pooled [2] - 106:4,
106:9
pooling [1] - 102:5
Port [2] - 48:21, 73:22
portion [6] - 85:2,
85:14, 140:7, 234:8,
255:25
position [3] - 92:20,
103:15, 105:21
possess [3] - 40:14,
40:18, 150:3
possibility [8] - 87:6,
88:21, 117:11,
117:13, 164:6,
223:16, 230:11,
239:13
possible [11] - 80:3,
86:18, 88:15, 88:23,
118:14, 140:25,

148:12, 151:2,
220:7, 232:16,
232:22
possibly [6] - 70:20,
97:13, 126:22,
137:6, 186:19,
225:11
potentially [2] - 46:11,
129:17
pounds [3] - 105:24,
261:16, 262:2
Powell [1] - 48:14
power [4] - 40:13,
40:17, 40:21, 184:14
pr [1] - 230:23
practice [1] - 35:15
Practice [1] - 1:20
practiced [1] - 19:8
precinct [9] - 160:9,
175:21, 176:3,
176:8, 178:15,
179:24, 181:4,
228:8, 229:6
Precinct [4] - 9:23,
10:2, 10:3, 10:4
precisely [1] - 117:3
preparation [1] - 6:14
prepare [1] - 6:13
prepared [5] - 6:23,
36:11, 36:14, 36:15
PRESENT [1] - 2:17
present [2] - 55:5,
176:16
presented [2] - 55:4,
90:9
presents [1] - 24:25
president [1] - 58:19
press [1] - 235:11
pressure [3] - 35:9,
157:24, 158:11
pretend [1] - 43:4
pretended [2] -
110:18, 121:18
pretial [1] - 7:13
pretty [12] - 65:7,
79:12, 93:16, 94:4,
125:4, 131:4,
165:12, 180:10,
206:21, 221:13,
223:22, 237:14
prevent [2] - 171:19,
173:20
prevented [5] -
183:11, 255:21,
255:24, 256:3, 260:5
prevents [1] - 167:15
previously [2] -
199:12, 233:8
prima [1] - 55:5
prison [1] - 24:9

private [1] - 73:23
Pro [1] - 4:15
pro [1] - 54:12
probable [2] - 223:25,
224:3
Probation [4] - 75:21,
76:17, 76:23, 77:16
probation [3] - 76:25,
92:17, 93:19
problem [8] - 12:6,
25:2, 56:6, 86:9,
127:17, 173:15,
198:15
procedure [11] -
143:15, 183:3,
183:4, 183:10,
183:16, 184:20,
184:22, 184:23,
185:10, 185:12,
187:7
proceed [4] - 58:6,
102:20, 168:5,
233:23
proceeded [1] - 61:19
proceeding [1] - 218:3
process [5] - 22:4,
95:11, 95:13, 96:5,
184:15
Productions [1] - 4:16
professionals [1] -
241:15
prominent [3] - 198:4,
211:10, 213:12
promise [1] - 180:23
promotion [1] - 10:10
prompted [1] - 218:23
property [1] - 65:21
propped [1] - 114:24
propriety [1] - 232:8
prosecuted [4] -
194:9, 195:19,
200:21, 205:4
prosecution [1] -
27:17
prosecutor [1] - 17:17
prosecutors [1] -
27:20
protect [2] - 192:23,
206:25
proud [2] - 20:6, 20:23
prove [1] - 81:11
proved [1] - 185:24
proven [1] - 91:13
provide [2] - 33:23,
185:18
provided [1] - 105:6
providing [1] - 34:10
proximity [2] - 68:2,
68:20
psyche [1] - 23:17

psychiatric [2] - 16
238:25, 239:2
public [2] - 194:2,
199:18
PUBLIC [2] - 264:16,
266:25
Public [4] - 1:23, 3:14,
5:17, 267:3
puddle [2] - 119:9,
144:13
pulled [7] - 53:10,
113:8, 113:11,
121:16, 139:16,
263:16, 263:19
pulling [3] - 114:13,
114:21, 121:12
pummel [1] - 61:19
pumped [2] - 222:9,
229:16
punished [1] - 20:16
purchased [1] -
225:15
purpose [4] - 59:13,
94:12, 222:23,
230:22
pursuant [2] - 1:19,
105:10
push [1] - 139:15
pushes [1] - 50:4
pushing [1] - 184:15
put [17] - 92:20,
105:12, 110:22,
110:23, 112:21,
114:24, 138:20,
157:5, 158:11,
159:7, 161:8, 181:8,
193:16, 217:18,
230:18, 247:5,
251:13
putting [4] - 53:12,
107:19, 112:5,
178:15

Q

qualified [1] - 256:13
quarters [4] - 66:12,
66:15, 66:16, 66:20
questioned [2] -
23:23, 226:13
questioning [13] -
19:17, 90:3, 109:8,
167:9, 167:15,
169:8, 169:11,
172:13, 181:15,
181:19, 226:10,
229:2, 229:3
questions [39] - 6:6,
21:3, 25:14, 26:23,

27:2, 27:5, 27:18,
27:21, 27:24, 36:10,
37:6, 45:12, 48:4,
62:2, 69:20, 75:11,
79:6, 83:8, 83:23,
100:17, 122:16,
172:4, 181:25,
192:5, 193:12,
195:11, 197:8,
197:10, 198:8,
203:25, 206:16,
209:10, 214:7,
215:5, 217:12,
217:13, 227:23,
246:5, 251:3
quick^[1] - 180:10
quintessential^[1] -
262:23
quite^[3] - 17:6, 28:23,
91:12
quote^[2] - 10:14,
165:10
quote/unquote^[6] -
18:23, 88:4, 110:17,
140:12, 173:20,
190:14

R

rackets^[4] - 9:25,
15:13, 15:15, 191:11
rage^[2] - 239:12,
239:15
raise^[6] - 48:19, 83:7,
152:9, 152:14,
153:2, 214:14
raised^[2] - 110:23,
152:24
ran^[3] - 195:25,
212:4, 237:10
ranting^[1] - 227:24
raped^[1] - 11:13
rate^[3] - 16:17, 16:25,
17:6
rather^[3] - 27:8,
33:21, 61:11
raving^[1] - 227:24
react^[10] - 60:21,
87:10, 88:3, 226:22,
227:5, 227:13,
227:19, 230:3,
232:3, 232:11
reaction^[2] - 78:11,
237:23
read^[9] - 39:25,
76:20, 77:3, 199:25,
206:20, 218:13,
234:4, 234:8, 259:24
READ^[1] - 266:6

READS^[1] - 266:6
real^[3] - 12:5, 14:12,
134:16
reality^[1] - 230:12
realize^[2] - 243:22,
260:12
really^[16] - 9:3, 13:5,
22:7, 23:14, 24:10,
60:19, 92:12,
114:16, 171:7,
171:22, 194:11,
196:5, 196:9, 209:6,
216:14, 258:5
reason^[17] - 6:8,
48:16, 69:10, 70:11,
70:21, 70:22, 71:10,
71:16, 72:15, 72:25,
107:13, 111:23,
120:22, 120:25,
186:13, 205:10,
210:23
REASON^[1] - 266:6
reasonably^[1] - 74:7
reasons^[5] - 91:10,
91:11, 92:8, 187:10,
233:7
receipt^[1] - 225:20
receive^[4] - 12:18,
58:20, 209:7, 209:12
received^[3] - 58:11,
58:12, 58:15
recent^[3] - 44:2, 47:5,
246:2
recently^[2] - 189:21,
193:14
recess^[4] - 58:2,
102:15, 167:25,
233:19
recognize^[4] - 39:17,
104:3, 104:9, 255:7
reconcile^[2] - 232:24,
238:13
reconstruct^[3] - 97:9,
97:24, 98:8
record^[24] - 5:21,
27:6, 57:25, 58:5,
59:13, 102:14,
102:19, 167:24,
168:4, 186:14,
186:20, 186:21,
187:10, 194:3,
199:18, 204:3,
204:6, 232:6,
233:18, 233:22,
246:3, 264:4, 267:7
recorded^[3] - 182:25,
187:18, 188:3
recorders^[1] - 186:11
recording^[7] -
183:12, 184:16,

185:17, 185:23,
186:5, 186:8, 186:17
records^[1] - 13:16
reel^[1] - 4:2
refer^[1] - 21:8
reference^[1] - 14:9
referring^[8] - 7:3,
54:2, 57:9, 57:16,
69:25, 115:20,
174:13, 217:9
refers^[1] - 172:13
refinanced^[1] - 65:24
reflect^[1] - 156:25
reflects^[3] - 153:13,
153:16, 154:10
refresh^[4] - 71:18,
74:15, 76:15, 251:25
refreshes^[1] - 252:10
regard^[7] - 44:5,
77:13, 78:21, 83:18,
132:4, 183:4, 204:14
regurgitate^[1] - 26:2
Reid^[4] - 21:2, 24:20,
30:4, 31:18
reimbursed^[1] -
217:15
REIN^[1] - 1:7
Rein^[19] - 8:11, 16:16,
30:10, 74:17, 83:19,
87:15, 148:15,
160:19, 168:20,
178:17, 181:3,
181:11, 181:21,
186:22, 235:4,
241:13, 245:6,
247:23, 258:2
Rein's^[2] - 87:7,
259:23
related^[1] - 267:9
relation^[1] - 196:20
relationship^[1] -
250:24
reliable^[1] - 242:21
remark^[2] - 36:22,
60:6
remember^[63] - 7:17,
11:14, 16:13, 29:2,
56:16, 56:20, 56:21,
56:23, 56:24, 70:19,
71:14, 71:21, 72:6,
72:7, 72:10, 75:12,
75:15, 76:2, 76:20,
76:22, 80:2, 84:3,
100:3, 103:2,
103:13, 106:4,
106:7, 115:10,
115:11, 119:8,
123:23, 130:2,
131:20, 143:2,
143:5, 143:20,

147:6, 151:5,
153:21, 160:2,
165:9, 169:24,
177:8, 179:3,
191:13, 191:16,
197:15, 197:25,
200:14, 220:15,
220:16, 225:7,
225:9, 225:21,
226:8, 235:8,
235:10, 244:11,
254:19, 254:20,
256:18, 258:14,
259:14
removed^[3] - 117:16,
117:17, 201:15
render^[4] - 108:10,
110:16, 110:18,
144:5
rendered^[12] -
107:25, 108:9,
108:15, 108:20,
108:25, 111:15,
111:17, 111:19,
111:22, 137:17,
140:3, 141:22
rendering^[2] -
121:22, 140:14
renovated^[1] - 63:10
rental^[3] - 65:10,
65:11, 65:21
rented^[1] - 64:10
repeat^[1] - 87:3
repeatedly^[1] -
111:10
rephrase^[1] - 6:9
report^[17] - 36:23,
36:24, 37:9, 37:16,
37:19, 38:24, 74:24,
143:25, 156:3,
158:8, 158:15,
158:18, 158:21,
158:22, 159:6,
236:2, 247:14
reported^[3] - 192:21,
207:22, 208:6
reporter^[9] - 4:17,
5:13, 71:22, 153:20,
153:23, 187:23,
234:3, 234:9, 242:22
reporter's^[1] - 96:21
Reporting^[1] - 4:19
reports^[10] - 6:18,
6:22, 36:11, 74:25,
193:10, 193:14,
208:5, 212:23,
244:19
represent^[5] - 4:23,
29:18, 29:20, 54:8,
167:8

represented^[5] - 29:7, 17
29:10, 54:9, 167:16,
199:12
representing^[2] -
199:11, 217:23
represents^[1] - 38:25
reproduced^[1] -
133:19
requested^[1] - 234:7
requirement^[1] -
95:24
reserved^[1] - 3:10
residence^[4] - 76:12,
104:8, 249:12,
249:15
residue^[1] - 226:7
respect^[1] - 89:2
respective^[1] - 3:4
respond^[4] - 192:3,
193:12, 194:4,
199:16
response^[10] - 16:16,
77:12, 78:20, 81:18,
83:10, 86:19, 87:8,
88:13, 94:2, 234:22
responses^[1] - 78:23
rest^[3] - 15:8, 86:10,
127:15
restaurant^[4] - 57:12,
57:15, 57:17, 175:13
restaurants^[2] - 43:7,
43:12
result^[4] - 49:3, 55:6,
56:15, 59:23
resulted^[1] - 46:23
retire^[1] - 66:12
retired^[10] - 5:10,
50:9, 62:2, 66:11,
66:13, 66:24, 76:9,
212:16, 217:25
retrieve^[1] - 69:18
retry^[1] - 204:18
retrying^[1] - 204:20
reveals^[1] - 30:25
reversal^[1] - 204:5
reversed^[1] - 189:22
review^[4] - 6:13, 7:16,
8:3, 38:7
reviewed^[2] - 7:9,
160:18
reviewing^[2] - 7:17,
38:12
revolted^[1] - 144:6
RICHARD^[2] - 1:8,
2:16
Richard^[1] - 5:7
rid^[1] - 62:22
risen^[2] - 124:23,
125:11
rises^[3] - 125:22,

125:24, 125:25
rising [1] - 126:7
River [1] - 47:6
Road [4] - 1:12, 2:4, 4:10, 49:15
road [5] - 43:20, 52:17, 52:19, 53:17, 178:20
rob [1] - 73:10
robbed [1] - 54:5
robbery [3] - 54:6, 58:22, 62:5
ROBERT [1] - 1:7
rock [1] - 51:13
rocks [3] - 50:23, 51:3, 78:17
Rocky [5] - 48:18, 49:12, 51:24, 64:4, 64:6
rodeo [1] - 226:11
ROE [1] - 1:8
roid [2] - 239:12, 239:15
Ron [4] - 57:18, 62:18, 82:14, 160:6
Ron's [1] - 82:2
Ronald [1] - 57:19
Ronnie [7] - 57:11, 81:2, 81:3, 83:17, 83:25, 191:18, 227:7
room [47] - 19:23, 19:24, 23:22, 30:22, 41:2, 42:15, 43:8, 97:20, 97:23, 98:2, 98:5, 98:17, 98:19, 99:6, 122:22, 122:23, 128:15, 129:5, 131:18, 132:7, 132:22, 146:24, 147:8, 147:14, 147:18, 147:24, 149:14, 150:6, 150:11, 150:20, 150:21, 151:4, 152:22, 157:7, 178:16, 181:8, 181:12, 182:22, 228:21, 237:9, 237:12, 237:19, 251:17, 252:18, 252:21, 259:3, 261:4
rooms [3] - 48:23, 49:2, 97:8
Rother [15] - 57:11, 57:18, 57:19, 62:19, 65:6, 81:2, 81:3, 83:17, 83:18, 83:25, 84:6, 160:6, 166:14, 227:7

rough [1] - 201:5
route [1] - 209:23
rule [1] - 167:14
ruler [3] - 225:13, 225:14, 225:22
Rules [1] - 1:20
run [3] - 71:3, 112:14, 169:14
running [4] - 51:20, 53:17, 79:18, 222:17
runs [1] - 52:3
ruse [6] - 218:21, 222:9, 222:17, 224:11, 225:5, 225:8
rush [1] - 236:10
rushing [1] - 129:9

S

Sal [1] - 191:9
salary [3] - 9:8, 66:16, 66:20
Sally [1] - 191:9
Salonga [1] - 191:15
sat [4] - 8:9, 8:22, 71:23, 108:5
satisfy [1] - 103:10
saw [21] - 10:14, 14:9, 51:5, 51:10, 51:11, 53:16, 59:24, 99:15, 99:19, 104:4, 123:10, 130:9, 131:24, 132:23, 171:18, 173:3, 194:22, 211:18, 212:10, 246:18, 258:19
Sayville [1] - 11:12
Scala [2] - 191:9
scale [1] - 104:8
scared [1] - 223:18
scenario [9] - 106:23, 108:25, 109:3, 113:2, 117:13, 118:9, 129:16, 148:12, 149:6
scene [23] - 7:21, 68:3, 68:4, 70:16, 70:17, 75:7, 77:22, 79:24, 93:9, 93:22, 93:24, 107:14, 118:21, 120:5, 129:12, 166:2, 172:8, 174:18, 197:17, 218:20, 229:4, 255:14
SCHECK [1] - 2:7
scheduled [3] - 68:14, 68:17, 68:18

Schoendorf [2] - 225:3, 225:9
school [5] - 19:7, 51:24, 231:17, 248:3, 248:15
schools [1] - 18:7
scoundrel [2] - 216:2, 216:20
scoundrels [2] - 206:21, 207:6
scratch [2] - 60:11, 262:5
screaming [5] - 79:20, 79:24, 116:22, 219:25, 227:23
screwed [1] - 65:15
scrutiny [2] - 28:7, 28:12
sealing [1] - 3:5
Sean [1] - 17:25
Seaside [3] - 82:6, 157:10, 157:13
seasoned [2] - 32:2, 183:18
Second [1] - 9:23
second [10] - 40:6, 71:6, 122:18, 226:23, 227:17, 228:3, 232:5, 235:25, 247:17, 252:24
seconds [2] - 97:19, 155:12
secretary [1] - 38:5
section [1] - 61:24
Security [1] - 14:17
security [1] - 14:17
see [72] - 24:13, 26:17, 38:10, 48:18, 60:8, 74:7, 83:24, 88:12, 88:16, 97:14, 98:6, 100:15, 101:12, 101:23, 102:2, 102:8, 102:24, 103:8, 106:19, 109:5, 112:24, 113:15, 115:19, 116:9, 117:2, 117:15, 126:14, 127:14, 128:8, 128:18, 129:18, 129:19, 129:22, 133:14, 134:5, 135:23, 139:13, 139:18, 140:24, 143:14, 155:12, 160:3, 160:21, 165:19, 175:18, 178:8, 182:4, 215:2, 215:10, 216:21,

228:4, 236:23, 251:18, 251:24, 252:10, 253:14, 253:17, 256:8, 256:14, 256:15, 257:14, 257:15, 257:17, 258:23, 259:6, 259:7, 259:12, 260:10
See [1] - 62:22
seeing [6] - 255:11, 255:25, 256:3, 257:9, 257:21, 257:23
seem [2] - 107:3, 263:13
selective [1] - 49:24
selling [6] - 191:21, 194:9, 200:17, 201:13, 202:8, 205:21
sells [1] - 202:10
seminars [1] - 18:8
send [1] - 68:12
senior [1] - 231:20
sense [6] - 23:9, 24:13, 32:15, 41:10, 103:19, 152:21
separate [1] - 12:21
separated [2] - 49:14, 59:16
September [9] - 14:3, 14:4, 37:11, 37:15, 125:22, 125:24, 133:10, 156:7, 220:4
sequence [4] - 85:19, 85:21, 124:18, 178:17
sequence-wise [2] - 85:19, 85:21
sequences [1] - 96:25
sergeant [3] - 70:10, 237:15, 237:18
Sergeant [15] - 38:15, 67:24, 69:14, 69:25, 70:14, 71:12, 72:20, 74:16, 169:19, 174:12, 181:3, 210:10, 210:22, 215:24, 259:24
serial [1] - 11:16
series [2] - 6:6, 28:7
serious [8] - 16:7, 19:13, 19:15, 19:24, 20:15, 30:24, 198:25, 199:4
serve [1] - 230:23
set [14] - 18:14, 18:24, 19:3, 25:4, 40:5, 40:23, 65:16, 93:2,

150:11, 185:2, 206:15, 256:11, 267:6, 267:15
sets [1] - 122:24
settled [2] - 163:22, 163:25
seven [3] - 13:23, 61:22, 149:18
seventeen [2] - 231:3, 231:7
seventeen-year-old [2] - 231:3, 231:7
seventy [1] - 156:20
seventy-nine [1] - 156:20
several [8] - 39:21, 82:22, 162:13, 203:22, 204:2, 211:6, 212:11, 229:3
severe [1] - 254:3
sexual [1] - 30:6
Seymour [10] - 118:16, 118:19, 162:9, 162:10, 163:2, 163:18, 174:9, 243:19, 243:20, 243:24
shall [2] - 3:6, 3:10
Shari [12] - 57:11, 82:18, 82:21, 83:17, 84:6, 84:14, 84:17, 85:8, 85:11, 85:15, 85:21, 86:8
SHEET [1] - 266:2
sheets [1] - 129:19
Sheriff [1] - 11:25
sheriff [1] - 48:11
Shield [1] - 12:24
shirt [1] - 117:7
shit [8] - 53:12, 60:20, 192:24, 193:19, 201:25, 202:2, 202:6
shock [3] - 87:19, 88:4, 223:18
shocked [2] - 263:8, 263:12
shocking [2] - 202:11, 202:13
shoes [1] - 59:25
shooting [3] - 58:23, 202:20, 203:4
shop [3] - 68:6, 68:8, 68:11
shore [2] - 73:25, 231:19
short [3] - 50:18, 52:16, 67:20
shortly [1] - 212:22
shorts [1] - 79:19
shot [4] - 26:9, 26:11,

226:2, 226:5
SHOULD [1] - 266:6
shoulder [4] - 116:17,
 121:23, 229:10,
 251:14
show [12] - 37:4,
 39:14, 71:20, 76:3,
 103:18, 103:24,
 127:22, 156:21,
 237:10, 255:7,
 260:15, 262:17
shower [8] - 109:19,
 110:2, 146:4, 146:8,
 220:13, 220:17,
 229:10, 251:10
showered [2] - 110:9,
 251:7
shows [3] - 169:7,
 169:14, 208:17
Shuckman [11] -
 47:23, 48:3, 50:4,
 50:12, 51:3, 51:16,
 52:3, 52:8, 56:7,
 56:8, 56:14
shy [1] - 197:9
SIC [1] - 16:11
sickened [2] - 143:10,
 143:16
side [19] - 50:5,
 116:10, 116:16,
 117:23, 120:17,
 121:11, 121:15,
 126:7, 126:8,
 128:21, 135:23,
 164:10, 253:15,
 253:25, 255:22,
 256:22, 257:12,
 257:24, 259:4
sided [1] - 61:17
sides [1] - 136:9
sign [2] - 38:7, 38:22
Signature [1] - 266:21
signed [2] - 3:13, 3:15
silly [1] - 221:13
Silver [1] - 12:24
similar [1] - 43:12
simple [2] - 141:17,
 150:14
simply [5] - 42:22,
 66:24, 79:5, 140:13,
 186:7
single [1] - 262:4
sister [3] - 111:3,
 140:17, 141:23
sisters [1] - 80:20
sit [5] - 30:22, 41:2,
 42:22, 86:15, 87:21
site [2] - 143:17, 144:6
sits [1] - 165:19
sitting [6] - 23:22,

42:15, 113:22,
 178:16, 204:10,
 227:20
situation [4] - 43:10,
 78:16, 87:11, 166:21
six [4] - 16:25, 67:7,
 189:10, 196:6
Sixth [2] - 10:3, 10:4
skill [7] - 18:14, 18:24,
 19:3, 25:4, 26:19,
 40:23, 40:24
skippy [1] - 191:2
Skippy [1] - 191:4
slashes [1] - 259:14
slide [1] - 60:7
slight [1] - 148:5
slightly [1] - 129:25
slit [1] - 127:6
slowly [1] - 50:13
small [8] - 12:3,
 145:13, 155:20,
 181:23, 247:11,
 247:21, 248:20,
 249:9
smart [1] - 32:17
smashed [3] - 256:2,
 257:24, 258:15
smear [11] - 118:11,
 130:14, 135:9,
 135:11, 135:24,
 136:5, 136:12,
 136:22, 137:2,
 137:5, 147:11
smears [1] - 155:12
Smithtown [2] -
 225:17, 225:18
smoking [1] - 198:18
smudged [1] - 134:12
snide [1] - 60:6
snowfall [1] - 27:11
SOA [1] - 48:24
Social [1] - 14:16
social [1] - 14:17
Society [2] - 58:12,
 58:13
sold [3] - 65:9, 65:11,
 65:25
solved [2] - 12:16,
 218:21
solving [1] - 16:19
someone [5] - 32:17,
 45:22, 132:18,
 234:18, 245:17
someplace [4] - 14:9,
 75:10, 149:9, 151:12
sometime [2] -
 110:10, 123:11
sometimes [8] -
 19:18, 19:21, 22:20,
 44:14, 67:18, 90:22,

178:9, 178:10
somewhat [2] - 88:9,
 123:20
somewhere [2] -
 10:14, 206:20
son [18] - 17:22,
 17:24, 44:5, 59:17,
 60:19, 60:20, 166:4,
 172:25, 191:21,
 194:8, 200:17,
 201:13, 202:22,
 205:21, 207:22,
 207:24, 208:5
son-in-law [1] - 166:4
soon [3] - 74:10,
 77:22, 92:13
Sorry [1] - 238:20
sorry [13] - 15:12,
 36:10, 82:2, 109:2,
 143:4, 162:24,
 195:23, 196:7,
 216:8, 243:9, 244:23
sort [5] - 41:11, 57:2,
 73:23, 136:18,
 168:11
soul [1] - 15:9
sound [4] - 74:6,
 93:21, 249:19,
 249:22
Sound [3] - 65:19,
 73:25, 125:18
sounds [4] - 79:12,
 157:21, 165:12,
 173:2
South [4] - 47:6,
 55:18, 60:3, 66:10
southeast [1] - 126:3
spatter [5] - 132:7,
 132:22, 134:11,
 134:12, 134:22
spattered [2] - 132:12,
 132:13
speaking [7] - 108:10,
 151:16, 163:15,
 168:14, 171:20,
 181:24, 245:17
special [2] - 28:12,
 35:23
specific [1] - 247:15
specifically [4] -
 17:16, 123:24,
 192:3, 225:8
specs [4] - 131:9,
 131:11, 132:23,
 133:14
speculate [1] - 171:23
speech [1] - 212:22
spent [1] - 223:6
splatter [1] - 132:24
split [1] - 82:19

spoiled [1] - 231:18
spoken [3] - 218:10,
 240:20, 240:23
sports [1] - 248:16
spot [2] - 141:12,
 249:18
Spota [8] - 29:17,
 29:24, 54:7, 54:10,
 198:10, 198:12,
 199:11
spots [2] - 113:20,
 117:15
sprayed [2] - 132:11,
 132:20
squad [13] - 9:24,
 10:5, 10:7, 15:10,
 28:9, 28:14, 95:14,
 189:10, 189:12,
 194:18, 196:25,
 228:21, 232:3
Squad [1] - 76:9
squealing [1] - 67:13
St [6] - 48:9, 48:10,
 48:17, 49:5, 52:11,
 68:23
stabbed [4] - 11:13,
 236:22, 258:20
stability [1] - 34:8
stake [1] - 71:4
stakes [3] - 73:9,
 211:5, 213:11
stamped [1] - 95:16
stand [1] - 215:3
standby [3] - 67:17,
 67:21, 67:22
standing [1] - 174:5
stands [5] - 161:2,
 161:21, 165:17,
 219:6, 223:14
Stanton [2] - 212:20
Star [1] - 142:8
start [7] - 9:17, 18:4,
 18:22, 57:10, 62:8,
 62:11, 252:9
started [4] - 14:16,
 43:19, 50:13, 229:4
starting [1] - 231:16
starts [2] - 50:7,
 247:13
state [10] - 4:22,
 11:23, 28:13, 28:16,
 29:4, 29:14, 236:21,
 238:19, 239:17,
 240:9
State [7] - 1:23, 5:17,
 5:21, 5:24, 13:10,
 218:2, 267:4
statement [4] - 21:17,
 29:13, 31:11, 76:5
States [3] - 4:7, 48:19,

231:8
STATES [1] - 1:2
station [5] - 51:23,
 52:2, 52:4, 52:5,
 84:8
stay [1] - 192:18
staying [2] - 48:20,
 195:10
stealing [2] - 242:6,
 244:7
steno [2] - 96:16,
 96:19
step [3] - 201:15,
 228:3, 229:13
stepped [1] - 192:25
stepsister [2] - 80:21,
 80:24
stepsister's [1] - 81:4
steroid [1] - 245:21
steroids [18] - 233:12,
 233:16, 234:14,
 239:8, 241:10,
 241:24, 242:6,
 242:20, 243:19,
 244:3, 244:8,
 244:20, 244:22,
 245:6, 245:16,
 246:7, 246:18, 247:6
Steuerman [60] -
 69:18, 159:15,
 159:19, 159:23,
 160:20, 161:7,
 161:15, 161:16,
 162:7, 162:12,
 162:25, 163:4,
 163:6, 165:2, 165:7,
 165:18, 165:23,
 166:5, 171:13,
 175:7, 175:10,
 175:16, 176:16,
 176:25, 177:4,
 180:6, 190:2,
 190:13, 192:22,
 193:4, 193:8, 201:4,
 201:13, 203:6,
 205:14, 206:2,
 207:2, 209:13,
 209:15, 209:18,
 210:2, 210:6,
 210:21, 211:19,
 211:24, 211:25,
 212:10, 212:13,
 212:24, 213:7,
 214:9, 214:14,
 215:2, 215:15,
 215:19, 216:19,
 219:10, 219:14,
 220:2, 242:15
Steuerman's [8] -
 163:9, 166:20,

191:21, 194:8,
199:12, 200:7,
200:17, 202:22
stick [7] - 12:22, 71:4,
73:2, 73:4, 73:10,
141:6, 180:21
sticks [1] - 11:7
still [21] - 64:15,
64:17, 64:18, 93:3,
98:14, 117:10,
127:12, 148:21,
163:15, 193:15,
205:23, 212:2,
223:23, 225:14,
238:8, 238:12,
238:18, 239:17,
240:8, 242:15,
263:23
STIPULATED [3] - 3:3,
3:8, 3:12
STIPULATIONS [1] -
3:2
stole [3] - 50:13, 81:8,
216:7
stood [2] - 97:18,
98:19
stop [9] - 20:19,
57:21, 71:6, 71:17,
167:21, 189:12,
173:24, 189:8,
194:22
stopped [1] - 204:20
stops [2] - 167:9,
169:8
store [15] - 63:3,
63:25, 64:2, 191:22,
192:23, 193:2,
193:3, 194:10,
200:18, 201:14,
205:22, 213:8,
214:10, 216:4,
219:18
stores [5] - 50:21,
50:22, 51:13, 64:9
storm [2] - 142:3,
142:5
story [5] - 48:7, 52:16,
67:20, 201:7, 201:9
straightened [1] -
60:25
Street [2] - 2:8, 2:11
street [8] - 20:14,
22:18, 50:19, 53:15,
54:21, 63:8, 63:10,
202:21
stress [1] - 149:19
strip [8] - 50:21, 63:4,
63:7, 63:12, 63:20
stroll [1] - 94:9
struck [3] - 132:13,

132:18, 132:19
struggle [3] - 260:21,
261:2, 261:3
stuck [1] - 12:12
student [2] - 212:21,
213:16
studied [3] - 17:13,
18:21, 23:21
stuff [8] - 49:22,
57:12, 61:3, 93:11,
195:9, 200:15,
216:23, 245:21
stunned [2] - 263:8,
263:12
stupid [1] - 57:15
subjective [1] - 88:9
subjectively [2] -
222:13, 222:14
Subscribed [2] -
264:11, 266:23
subsequently [1] -
15:10
sudden [1] - 52:19
sue [1] - 164:7
sued [1] - 56:14
suffering [1] - 239:12
SUFFOLK [3] - 1:7,
1:8, 2:14
Suffolk [15] - 4:6, 5:8,
9:15, 9:21, 10:11,
16:17, 17:19, 28:8,
28:19, 48:12, 67:8,
76:8, 183:10,
225:17, 266:3
suggest [1] - 154:17
suggested [2] - 155:6,
235:5
suggesting [3] -
91:19, 134:7, 232:22
suggestion [1] -
241:10
suing [1] - 56:16
Suite [1] - 2:11
Sullivan [1] - 212:4
summary [2] - 37:10,
166:20
sun [8] - 124:2, 124:9,
124:23, 125:7,
125:11, 125:22,
125:24, 126:6
sunlight [1] - 124:21
sunny [3] - 123:21,
123:24, 123:25
sunrise [4] - 123:16,
123:20, 127:12,
128:16
sunrises [1] - 124:13
supervisor [3] - 38:14,
48:13, 95:25
supplement [1] -

246:20
supplemental [8] -
6:22, 36:23, 36:24,
37:9, 156:3, 158:7,
236:2, 247:14
supplements [3] -
244:9, 244:20,
244:22
support [1] - 241:21
supported [2] - 80:22,
86:14
supposed [9] - 8:23,
46:10, 52:13, 68:15,
105:5, 205:6, 215:4,
216:8, 226:22
supposedly [9] -
84:13, 85:22, 85:23,
90:10, 157:8,
157:13, 164:20,
208:13, 208:18
surgery [1] - 247:24
surrendered [2] -
54:25, 90:12
surviving [1] - 172:25
susceptibility [1] -
34:10
susceptible [1] - 33:9
suspect [28] - 11:14,
12:5, 22:2, 22:5,
25:7, 25:23, 41:17,
41:25, 42:15, 43:23,
44:23, 45:3, 45:5,
45:8, 45:14, 45:23,
74:11, 74:19, 92:12,
168:16, 170:10,
175:17, 175:19,
179:4, 179:5, 179:7,
180:7, 187:2
suspect's [1] - 30:7
suspected [1] - 81:12
suspects [7] - 15:21,
15:23, 27:15, 40:11,
44:19, 167:13,
226:13
suspicion [1] - 214:14
suspicious [3] -
42:16, 77:21, 77:23
suspicious [13] -
74:16, 92:21, 92:23,
92:25, 93:14, 94:3,
111:11, 168:22,
170:13, 175:24,
178:3, 180:4
swear [4] - 5:13,
117:6, 117:8, 209:25
sweatpants [1] - 53:8
sweatshirt [11] - 53:8,
111:12, 111:19,
112:13, 112:16,
112:22, 112:23,

113:13, 114:23,
146:18, 146:21
switch [9] - 99:8,
99:12, 147:8,
147:12, 147:15,
147:19, 147:23,
148:5, 148:10
switched [1] - 14:19
swore [1] - 206:3
sworn [5] - 3:15, 5:16,
264:11, 266:23,
267:6
swung [3] - 115:8,
115:22, 132:19
synopsis [1] - 39:2
system [3] - 90:18,
91:21, 183:21

T

table [1] - 225:13
tabling [1] - 20:14
tackle [1] - 63:25
tail [1] - 12:9
takers [2] - 16:11, 28:8
talks [1] - 152:6
Tankleff [32] - 4:5,
4:25, 5:3, 5:6, 36:12,
74:4, 86:14, 104:8,
106:10, 122:23,
161:7, 161:15,
161:16, 162:12,
162:15, 162:18,
165:8, 165:22,
166:12, 166:23,
172:6, 201:21,
207:18, 208:2,
218:22, 219:9,
220:3, 239:6,
239:11, 247:21,
261:6, 266:2
TANKLEFF [2] - 1:4,
2:19
Tankleff's [2] -
133:11, 190:3
Tankleffs [1] - 203:18
Tape [3] - 102:19,
168:4, 233:22
tape [10] - 58:4, 79:10,
80:6, 159:8, 186:11,
188:24, 189:8,
225:13, 225:14,
234:3
tapes [1] - 8:6
taught [1] - 30:5
tax [1] - 66:20
teach [1] - 31:18
team [5] - 6:25,
188:12, 188:14,

188:18, 189:9 20
technically [1] - 164:7
technicians [1] -
107:14
technique [8] - 21:2,
24:20, 30:5, 35:20,
41:18, 42:6, 44:10,
186:23
techniques [2] -
35:16, 186:18
Teddy [5] - 49:19,
49:20, 52:2, 54:13
Teddy's [1] - 49:21
teenage [4] - 78:7,
228:24, 231:12,
231:14
teenager [4] - 127:4,
144:3, 151:23,
152:11
teenager's [1] - 228:4
teenagers [1] - 36:5
telephone [7] - 84:9,
84:12, 99:16, 130:9,
130:12, 133:10,
140:19
television [5] -
127:18, 128:8,
128:10, 128:11,
208:17
tempting [1] - 26:7
ten [3] - 216:6, 216:7,
236:17
term [3] - 67:13,
124:20, 206:19
termed [1] - 78:20
terms [5] - 40:10,
98:9, 245:14,
245:15, 256:16
Terre [5] - 68:21,
73:13, 73:15,
249:17, 249:18
test [8] - 220:12,
220:19, 220:20,
236:7, 236:24,
241:7, 244:2, 246:12
testified [7] - 5:18,
7:13, 103:14,
119:18, 119:21,
120:21, 211:18
testify [1] - 29:2
testifying [4] - 9:9,
131:17, 131:20,
164:13
testimony [19] - 6:19,
7:10, 7:13, 7:16,
34:7, 72:18, 119:5,
121:2, 121:25,
132:4, 139:8, 173:4,
176:9, 218:13,
259:22, 259:23,

259:24, 267:5, 267:8 TESTIMONY [1] - 265:3 Testimony [2] - 1:20, 265:15 THAT [3] - 267:5, 267:7, 267:12 THE [15] - 1:2, 1:7, 4:2, 5:12, 6:4, 57:24, 58:4, 102:13, 102:18, 167:23, 168:3, 233:17, 233:21, 264:3, 266:2 themselves [2] - 4:22, 255:12 theorize [1] - 114:18 theorizing [1] - 114:18 theory [5] - 113:17, 114:20, 115:3, 122:2, 145:21 thereafter [1] - 139:23 thinking [6] - 71:2, 71:8, 72:23, 92:19, 153:14, 154:10 thirties [1] - 59:17 Thomas [2] - 29:17, 29:24 thorough [1] - 146:9 thousand [2] - 162:13, 211:6 thousands [2] - 20:11, 20:12 three [16] - 14:8, 14:17, 26:9, 36:24, 54:20, 66:12, 66:15, 66:16, 66:20, 78:2, 122:24, 123:7, 145:3, 166:3, 215:3, 257:19 three-page [1] - 36:24 threw [3] - 50:10, 51:3, 51:17 throat [1] - 131:25 throat's [1] - 127:6 throughout [1] - 189:17 throw [1] - 93:2 throwing [1] - 50:23 throws [1] - 51:12 thumb [1] - 39:22 thumbs [1] - 191:7 tilted [1] - 130:2 timed [1] - 51:6 tissue [6] - 142:16, 144:22, 144:25, 145:17, 145:22, 146:14 tissues [1] - 145:3 TO [1] - 265:3 to.. [1] - 33:13	today [13] - 4:17, 6:15, 8:24, 9:9, 27:9, 27:11, 38:17, 86:15, 89:17, 160:18, 217:16, 217:22, 245:13 Todd [4] - 200:6, 201:20, 202:7, 206:2 todd [1] - 205:21 together [6] - 48:16, 129:16, 211:19, 211:20, 212:11, 230:18 Tom [2] - 198:12, 199:11 Tommy [3] - 14:24, 195:16, 198:10 tomorrow [1] - 253:21 tongue [2] - 190:3, 190:14 took [48] - 7:4, 15:9, 39:3, 51:3, 51:18, 51:20, 51:21, 54:5, 58:7, 69:4, 82:15, 82:22, 84:14, 85:22, 94:15, 94:18, 94:25, 95:7, 95:21, 97:8, 101:8, 105:11, 105:20, 107:19, 109:25, 110:21, 112:8, 112:10, 122:7, 122:8, 129:10, 129:17, 146:3, 151:20, 153:18, 153:19, 156:23, 157:8, 157:13, 204:14, 208:25, 214:2, 218:25, 220:19, 244:20, 245:23, 246:21, 254:2 top [6] - 75:3, 131:5, 131:6, 131:7, 244:12, 253:23 tore [1] - 50:24 touch [1] - 254:17 touched [5] - 121:23, 139:22, 140:3, 140:11, 149:8 touches [1] - 141:11 touching [1] - 259:16 tough [1] - 207:25 towel [9] - 105:13, 107:7, 110:23, 112:6, 112:21, 114:24, 138:19, 138:23, 157:7 towels [5] - 251:10, 251:18, 252:12, 252:16, 252:17	Town [2] - 14:5, 48:13 town [1] - 12:3 trace [6] - 13:9, 13:12, 13:13, 13:17, 141:12, 146:11 trade [3] - 197:14, 200:7, 202:23 traded [1] - 211:6 trafficking [1] - 197:20 trained [7] - 19:7, 24:6, 46:3, 46:9, 94:9, 119:25, 120:4 training [2] - 15:19, 18:5 TRANSCRIPT [1] - 266:2 transcript [1] - 267:7 Transcription [1] - 4:20 transferred [1] - 10:4 trauma [1] - 172:22 travel [2] - 217:15, 218:5 treat [3] - 179:4, 234:25, 238:2 treated [1] - 179:7 Trek [1] - 142:8 trial [14] - 3:11, 7:10, 55:3, 82:12, 102:25, 104:7, 133:20, 142:23, 189:25, 198:21, 204:17, 215:8, 263:22 tricked [1] - 184:3 trickery [1] - 222:18 tricky [1] - 26:5 tried [2] - 97:22, 97:24 tripped [2] - 190:7, 211:22 trouble [1] - 164:21 troubles [1] - 219:9 true [42] - 24:4, 25:10, 26:23, 27:14, 34:6, 39:4, 42:16, 46:16, 84:20, 86:16, 96:6, 97:17, 98:2, 98:10, 107:8, 107:15, 108:23, 110:11, 112:13, 115:9, 116:15, 123:8, 126:9, 129:12, 130:10, 139:20, 152:12, 154:7, 154:11, 154:15, 184:18, 186:13, 187:14, 193:24, 193:25, 208:7, 208:12, 220:19, 221:5, 243:25, 244:18, 267:7	trust [3] - 117:9, 216:10, 216:13 truth [1] - 57:13 try [5] - 18:10, 43:3, 97:7, 230:22, 234:22 trying [18] - 33:12, 33:13, 33:17, 56:20, 75:6, 94:14, 98:7, 100:3, 111:16, 129:16, 150:25, 224:7, 225:7, 226:17, 232:24, 238:12, 240:2, 241:5 turn [6] - 67:24, 69:14, 95:25, 128:18, 147:20, 189:14 turned [8] - 99:11, 139:7, 139:9, 139:11, 139:17, 148:10, 180:8 turns [5] - 30:18, 31:11, 134:15, 172:16, 261:9 TV [2] - 150:11, 256:11 Twenty [2] - 67:3, 67:4 two [31] - 11:2, 23:22, 32:2, 42:25, 47:4, 53:17, 54:10, 58:17, 62:15, 63:4, 64:3, 65:23, 109:19, 113:21, 122:11, 123:3, 133:3, 160:19, 166:2, 172:25, 173:17, 177:7, 232:25, 242:19, 251:10, 252:3, 252:15, 252:16, 252:17, 262:13, 262:17 tying [1] - 49:12 type [2] - 38:2, 143:15 types [1] - 38:5 typos [1] - 38:12 U UCC [1] - 162:8 uh-hum [2] - 115:6, 132:2 uncle [2] - 168:10, 173:2 Uncle [10] - 170:23, 171:10, 171:17, 172:5, 172:13, 172:18, 173:2, 173:8, 173:24, 182:4 unconscious [2] - 235:6, 235:9 under [11] - 13:18,	13:25, 107:7, 108:25, 110:16, 117:13, 201:19, 202:7, 206:3, 214:20, 228:9 underneath [4] - 107:7, 116:3, 117:7, 120:19 undersheriff [1] - 48:15 understandable [1] - 86:20 understood [2] - 6:11, 72:12 underwear [1] - 53:9 unfold [1] - 181:15 unfortunately [2] - 118:16, 243:20 uniform [1] - 52:18 uniformed [2] - 52:6, 70:10 unintelligent [1] - 35:18 unique [2] - 40:22, 40:25 UNITED [1] - 1:2 United [3] - 4:6, 48:19, 231:8 unless [2] - 72:24, 237:12 unreasonable [3] - 128:14, 128:21, 128:25 up [102] - 8:23, 11:22, 14:16, 19:20, 35:13, 38:4, 47:8, 49:19, 50:4, 51:7, 51:16, 52:3, 52:10, 52:15, 53:11, 53:12, 53:21, 60:15, 65:15, 65:16, 69:19, 71:5, 73:2, 73:4, 73:10, 83:25, 89:18, 89:19, 93:3, 93:22, 93:24, 96:14, 101:15, 104:6, 110:17, 114:24, 122:17, 124:2, 124:4, 124:5, 124:9, 124:10, 125:9, 125:10, 126:20, 127:3, 127:4, 127:9, 129:23, 134:10, 135:7, 140:19, 141:14, 145:21, 147:11, 148:2, 148:18, 150:11, 158:15, 159:6, 163:11, 167:3, 167:5, 169:7, 169:14, 173:21,	21
---	---	---	--	--	----

174:7, 184:2, 184:7, 185:3, 188:21, 189:17, 189:21, 193:15, 193:19, 194:8, 195:19, 196:16, 196:17, 201:5, 201:10, 207:21, 208:20, 214:12, 217:16, 217:18, 217:23, 222:8, 223:25, 224:10, 228:2, 233:16, 234:10, 234:13, 236:15, 236:17, 241:9, 245:2, 245:5, 261:25, 263:16, 263:19 upper [1] - 37:15 upset [3] - 32:25, 78:25, 162:11 upside [1] - 61:17 upstairs [1] - 63:23 uses [3] - 134:10, 135:7, 152:5	215:13 view [21] - 69:13, 86:18, 87:7, 92:6, 92:9, 128:24, 129:3, 129:11, 129:12, 130:14, 151:9, 154:2, 200:4, 201:21, 203:7, 207:12, 207:17, 218:21, 219:2, 228:5 violence [2] - 197:21, 202:14 violent [1] - 202:22 vs [1] - 266:2 vulnerable [2] - 31:19, 32:4	2:12, 11:24 watch [3] - 127:25, 186:16, 187:12 watching [2] - 60:13, 186:24 watermelon [4] - 100:10, 100:20, 102:25, 103:9 ways [3] - 22:7, 88:14, 224:8 wealthy [1] - 73:24 weapon [1] - 132:21 weapons [1] - 146:9 wear [1] - 66:3 wearing [3] - 114:23, 146:21, 221:18 weather [2] - 27:9, 124:17 week [5] - 37:19, 156:7, 158:22, 159:6, 211:7 West [1] - 11:12 wet [3] - 110:6, 131:11, 131:14 whatnot [5] - 18:8, 50:2, 50:8, 51:5, 60:7 WHEREOF [1] - 267:14 whichever [1] - 232:23 whole [6] - 28:17, 48:7, 93:5, 184:10, 201:9, 201:25 wide [1] - 96:20 wife [4] - 163:19, 172:10, 226:2, 226:5 William [1] - 212:4 win [1] - 13:4 window [6] - 51:13, 60:9, 60:10, 124:6, 126:5, 126:9 windows [1] - 122:24 winner [1] - 47:10 wiped [1] - 113:20 wise [2] - 85:19, 85:21 withdraw [1] - 243:10 withdrawn [1] - 85:11 witness [15] - 5:10, 5:14, 44:24, 45:4, 45:5, 45:7, 45:14, 45:20, 46:11, 179:4, 215:3, 218:2, 267:5, 267:8 Witness [1] - 266:4 WITNESS [2] - 6:4, 267:14 witnesses [9] - 44:15, 164:9, 164:22, 171:3, 217:7, 217:10, 217:14,	240:21, 246:13 woke [3] - 125:9, 127:3, 148:2 woken [1] - 148:18 wondering [2] - 171:16, 171:17 woodwork [2] - 213:5, 213:7 word [10] - 11:6, 89:4, 143:18, 157:21, 157:23, 157:25, 185:3, 185:4, 238:18, 261:17 words [9] - 30:7, 78:15, 92:22, 152:3, 156:11, 186:16, 186:25, 187:12, 190:4 workday [2] - 68:17, 68:18 works [3] - 17:19, 183:22, 219:18 world [3] - 10:15, 202:2, 212:25 worry [1] - 192:7 worth [2] - 187:22, 235:24 wound [7] - 105:13, 156:4, 156:13, 157:17, 157:20, 158:12, 253:4 wounds [4] - 155:24, 253:17, 253:22, 261:10 wrap [1] - 261:25 write [6] - 38:4, 156:2, 157:18, 158:24, 158:25, 236:6 writes [1] - 153:20 written [1] - 183:5 wrongly [3] - 92:2, 92:3 wrote [5] - 37:18, 37:19, 158:14, 159:6, 251:20 Wustenhoff [2] - 15:8, 15:9	246:10 22 yelling [1] - 227:23 yesterday [5] - 8:10, 16:10, 30:11, 36:19, 38:19 yesterday's [1] - 36:21 yield [1] - 216:24 YORK [2] - 1:2, 1:2 York [15] - 1:13, 1:23, 2:5, 2:8, 2:15, 4:8, 4:17, 5:17, 5:25, 9:19, 13:11, 50:9, 167:15, 267:4 young [6] - 11:11, 35:19, 65:12, 144:3, 172:12, 195:25 younger [2] - 33:21, 35:8 yourself [8] - 26:15, 38:2, 42:11, 42:14, 42:21, 47:20, 83:22, 181:11 yourselves [1] - 184:25
V	W			
vacation [1] - 192:19 validity [1] - 203:9 valor [1] - 58:14 value [1] - 240:3 variety [1] - 161:13 various [2] - 9:22, 17:12 verbal [1] - 87:22 version [3] - 106:24, 110:13, 110:17 versus [1] - 4:5 viable [2] - 11:14, 180:7 vice [1] - 58:18 victim [3] - 22:21, 80:16, 258:23 video [2] - 188:24, 189:2 Video [2] - 4:15, 189:7 Videographer [1] - 2:18 VIDEOGRAPHER [11] - 4:2, 5:12, 57:24, 58:4, 102:13, 102:18, 167:23, 168:3, 233:17, 233:21, 264:3 videographer [2] - 4:15, 57:20 Videotape [1] - 265:17 videotape [2] - 183:8,	wages [2] - 217:22, 218:6 waist [1] - 251:14 Wait [1] - 232:5 wait [10] - 55:22, 87:3, 95:12, 112:14, 193:18, 210:17, 227:9, 236:9 waived [1] - 3:7 wake [1] - 127:4 walk [15] - 19:24, 25:12, 94:6, 94:18, 94:25, 97:6, 122:18, 125:10, 128:15, 142:10, 147:14, 147:18, 168:19, 189:6, 252:24 walk-thru [6] - 94:6, 94:18, 94:25, 122:18, 168:19, 252:24 walked [12] - 93:22, 93:24, 98:4, 98:13, 98:17, 98:23, 116:21, 122:17, 129:5, 150:8, 169:16, 169:21 walking [6] - 52:17, 52:19, 54:20, 61:16, 78:3, 94:11 wall [3] - 129:20, 147:11, 147:16 wander [2] - 18:3, 18:22 wants [1] - 52:20 war [2] - 62:9, 62:12 wash [2] - 144:11, 144:13 washed [1] - 119:9 Washington [2] -			
			Y	
			Yaphank [2] - 5:25 year [4] - 59:2, 231:3, 231:7, 231:20 years [16] - 9:16, 13:23, 14:17, 44:3, 61:22, 62:15, 67:3, 67:4, 67:16, 69:11, 153:18, 196:6, 213:2, 231:9, 245:8,	